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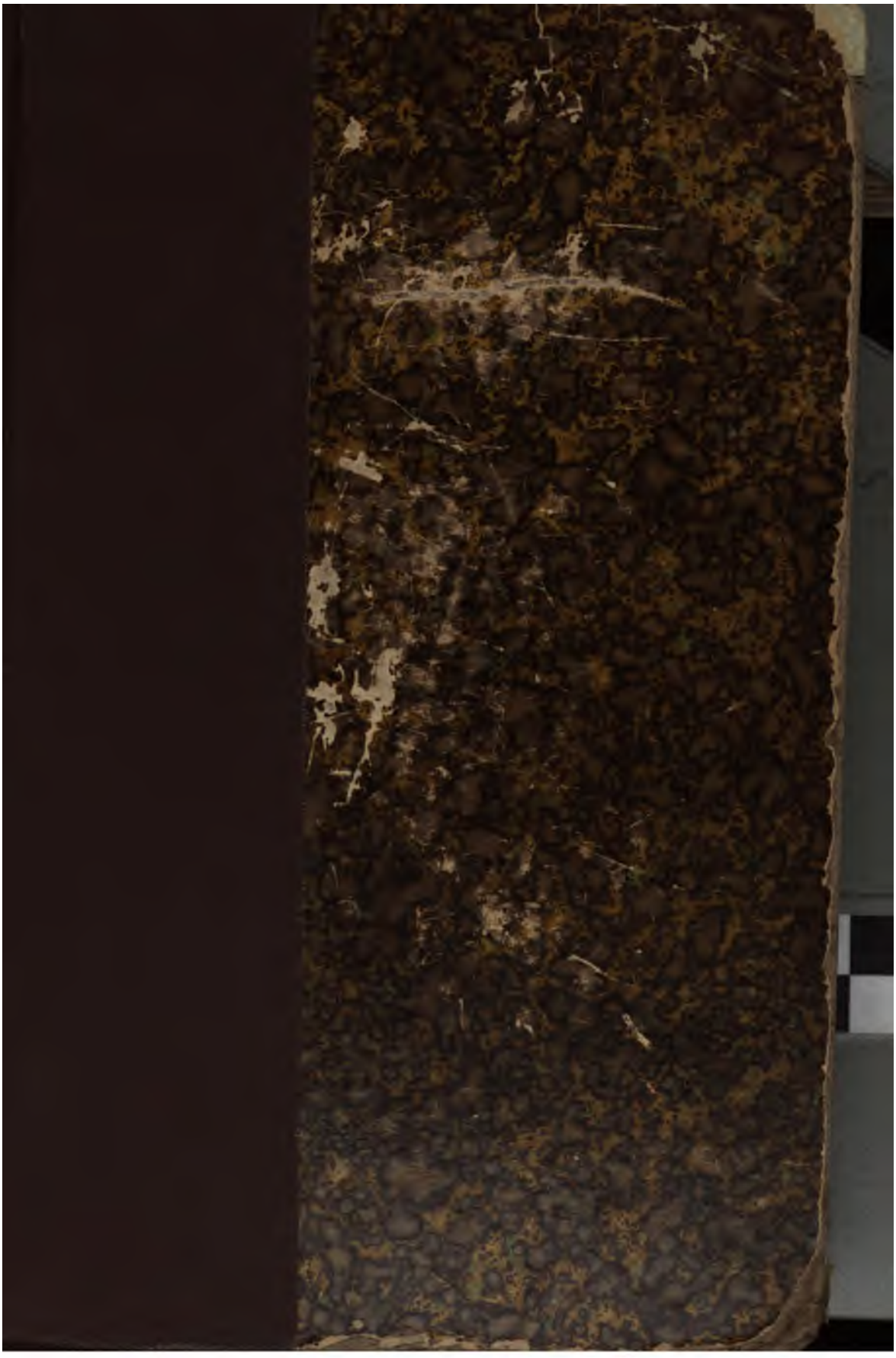

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THE

# WORKS

OF

# HENRY CLAY.

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IN SIX VOLUMES.

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# SPEECHES.

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## IN DEFENCE OF THE AMERICAN SYSTEM.

### IN THE SENATE OF THE UNITED STATES, FEB. 2D, 3D, AND 6TH, 1832.

[DURING the session of congress in 1832, in consequence of the violent opposition to the protective tariff then in operation, by South Carolina and other southern states, various propositions were introduced for the reduction of duties on imported articles, which finally resulted in the passage of a new tariff law, in July, 1832. This bill, which was reported in the house of representatives by Mr. John Quincy Adams, although it was voted for by many southern members, on the ground of its being a reduction of the former scale of duties, was not satisfactory to them, and the controversy on the subject of the tariff was not settled until the following year, when Mr. Clay's compromise bill was adopted, providing for a gradual diminution of the tariff of 1832.

In the following speech, Mr. Clay, in reply to Mr. Hayne, of South Carolina, and others, enters into a minute and careful examination of the American system, and its effects on the interests of the country; defending, with his usual skill and eloquence, the doctrine of protection to domestic industry. This effort adds another monument to his wisdom and fame, which will, we believe, be referred to by statesmen, who seek the true interests of the country, through all future ages of the republic.

The resolution offered by Mr. Clay in January, proposing a reduction of duties on certain imported articles not coming in competition with our manufactures, which he had supported in the foregoing speech of January eleventh, was still under consideration.]

IN one sentiment, Mr. President, expressed by the honorable gentleman from South Carolina (general Hayne), though perhaps not in the sense intended by him, I entirely concur. I agree with him, that the decision on the system of policy embraced in this debate, involves the future destiny of this growing country. One way, I verily believe, it would lead to deep and general distress, general bankruptcy, and national ruin, without benefit to any part of the union; the other, the existing prosperity will be preserved and augmented, and the nation will continue rapidly to advance in wealth, power, and greatness, without prejudice to any section of the confederacy.

[illegible] and to illustrate to this people gr
y connected with the lasting welfare of my c
ideed, sink overwhelmed and subdued beneath th
le of the task which lies before me, if I did not f
d and fortified by a thorough consciousness of th
use which I have espoused, and by a persuasio
mptuous, that it has the approbation of that P
so often smiled upon these United States.

years ago, it was my painful duty to present to
congress an unexaggerated picture of the gener
g the whole land. We must all yet remember
tful features. We all know that the people w
d, and borne down by an enormous load of c
of property was at the lowest point of depress
sales and sacrifices were every where made of re
laws, and relief laws, and paper money were ad
people from impending destruction; that a defi
venue existed, which compelled government to se
rt from its legitimate object, the appropriations to
l, to redeem the national debt; and that our c
igation were threatened with a complete paral
, if I were to select any term of seven years
of the present constitution which exhibited a scen
le-spread dismay and desolation, it would be exa
seven years which immediately preceded the e
the tariff of 1824.

now to perform the more pleasing task of exhib
t sketch of the existing state of the unparalleled p
country. On a general survey, we behold cu
l, the arts flourishing, the face of the country in
le fully and profitably employed, and the public
hibiting tranquillity, contentment, and happiness.
nd into particulars [illegible]

and coastwise, swelling and fully occupied; the rivers of our interior animated by the perpetual thunder and lightning of countless steamboats; the currency sound and abundant; the public debt of two wars nearly redeemed; and, to crown all, the public treasury overflowing, embarrassing congress, not to find subjects of taxation, but to select the objects which shall be liberated from the impost. If the term of seven years were to be selected, of the greatest prosperity which this people have enjoyed since the establishment of their present constitution, it would be exactly that period of seven years which immediately followed the passage of the tariff of 1824.

This transformation of the condition of the country from gloom and distress to brightness and prosperity, has been mainly the work of American legislation, fostering American industry, instead of allowing it to be controlled by foreign legislation, cherishing foreign industry. The foes of the American system, in 1824, with great boldness and confidence, predicted, first, the ruin of the public revenue, and the creation of a necessity to resort to direct taxation; the gentleman from South Carolina (general Hayne), I believe, thought that the tariff of 1824 would operate a reduction of revenue to the large amount of eight millions of dollars; secondly, the destruction of our navigation; thirdly, the desolation of commercial cities; and, fourthly, the augmentation of the price of objects of consumption, and further decline in that of the articles of our exports. Every prediction which they made has failed, utterly failed. Instead of the ruin of the public revenue, with which they then sought to deter us from the adoption of the American system, we are now threatened with its subversion, by the vast amount of the public revenue produced by that system. Every branch of our navigation has increased. As to the desolation of our cities, let us take, as an example, the condition of the largest and most commercial of all of them, the great northern capital. I have, in my hands, the assessed value of real estate in the city of New York, from 1817 to 1831. This value is canvassed, contested, scrutinized, and adjudged, by the proper sworn authorities. It is, therefore, entitled to full credence. During the first term, commencing with 1817, and ending in the year of the passage of the tariff of 1824, the amount of the value of real estate was, the first year, fifty-seven million seven hundred and ninety-nine thousand four hundred and thirty-five dollars, and, after various fluctuations in the intermediate period, it settled down at fifty-two million nineteen thousand seven hundred and thirty dollars, exhibiting a decrease, in seven years, of five million seven hundred and seventy-nine thousand seven hundred and five dollars. During the first year, of 1825, after the passage of the tariff, it rose, and, gradually ascending throughout the whole of the latter period of seven years, it finally, in 1831, reached the astonishing height of ninety-

n is, it is the joint effect of both principles, the
nourishing the foreign trade, and the foreign con
urishing the domestic industry. Nowhere mor
ork is the combination of both principles so c
d. In the progress of my argument, I will co
on the price of commodities produced by the
and show that the very reverse of the prediction c
actually happened.
st we thus behold the entire failure of all that wa
the system, it is a subject of just felicitation to i
their anticipations of its benefits have been fulfill
ess of fulfilment. The honorable gentleman fro
has made an allusion to a speech made by me,
her house, in support of the tariff, and to which, c
not have particularly referred. But I would ask
now command the courage to peruse that long
at principle there laid down is not true? what p
de has been falsified by practical experience?
now proposed to abolish the system, to which w
the public prosperity, and it is urged that the
d of the redemption of the public debt has been co
to as presenting a suitable occasion to rid the co
with which the system is alleged to be fraught.
ve observer of passing events, I have been aw
those who were most early pressing the paymen
ebt, and, upon that ground, were opposing appro
great interests, there were some who cared less a
n the accomplishment of other objects. But the p
ted States have not coupled the payment of *the*
h the destruction of the protection of *their* industry
laws and foreign industry. They have been acc
l the extinction of the public debt as relief from a

If the system of protection be founded on principles erroneous in theory, pernicious in practice, above all, if it be unconstitutional, as is alleged, it ought to be forthwith abolished, and not a vestige of it suffered to remain. But, before we sanction this sweeping denunciation, let us look a little at this system, its magnitude, its ramifications, its duration, and the high authorities which have sustained it. We shall see that its foes will have accomplished comparatively nothing, after having achieved their present aim of breaking down our iron-founderies, our woollen, cotton, and hemp manufactories, and our sugar-plantations. The destruction of these would, undoubtedly, lead to the sacrifice of immense capital, the ruin of many thousands of our fellow-citizens, and incalculable loss to the whole community. But their prostration would not disfigure nor produce greater effect upon the *whole* system of protection, in all its branches, than the destruction of the beautiful domes upon the capitol would occasion to the magnificent edifice which they surmount. Why, sir, there is scarcely an interest, scarcely a vocation in society, which is not embraced by the beneficence of this system.

It comprehends our coasting tonnage and trade, from which all foreign tonnage is absolutely excluded.

It includes all our foreign tonnage, with the inconsiderable exception made by treaties of reciprocity with a few foreign powers.

It embraces our fisheries, and all our hardy and enterprising fishermen.

It extends to almost every mechanic art — to tanners, cordwainers, tailors, cabinet-makers, hatters, tinners, brass-workers, clock-makers, coach-makers, tallow-chandlers, trace-makers, rope-makers, cork-cutters, tobacconists, whip-makers, paper-makers, umbrella-makers, glass-blowers, stocking-weavers, butter-makers, saddle and harness-makers, cutlers, brush-makers, book-binders, dairy-men, milk-farmers, black-smiths, type-founders, musical instrument-makers, basket-makers, milliners, potters, chocolate-makers, floor-cloth-makers, bonnet-makers, hair-cloth-makers, copper-smiths, pencil-makers, bellows-makers, pocket-book-makers, card-makers, glue-makers, mustard-makers, lumber-sawyers, saw-makers, scale-beam-makers, sithe-makers, wood-saw-makers, and many others. The mechanics enumerated, enjoy a measure of protection adapted to their several conditions, varying from twenty to fifty per cent. The extent and importance of some of these artisans, may be estimated by a few particulars. The tanners, curriers, boot and shoe makers, and other workers in hides, skins, and leather, produce an ultimate value per annum of forty millions of dollars; the manufacturers of hats and caps, produce an annual value of fifteen millions; the cabinet-makers, twelve millions; the manufacturers of bonnets and hats for the female sex, lace, artificial flowers, combs, and so forth, seven millions; and the manufacturers of glass, five millions.

...ake of the various persons directly or
l in the growth and manufacture of the article o
l at one hundred and sixty-seven millions of do
ber of persons at one hundred and fifty thousand
alue of iron, considered as a raw material, and of
is estimated at twenty-six millions of dollars per
goods, exclusive of the capital vested in the mar
the cost of the raw material, are believed to
, to about twenty millions of dollars.
estimates have been carefully made, by practical
ed character, who have brought together and e
rmation. Anxious to avoid the charge of exag
e sometimes placed their estimates below w
to be the actual amount of these interests. Wit
uantity of bar and other iron annually produc
rom the known works themselves; and I know
tates which they have omitted in their calculation
are some of the items of this vast system of pr
is now proposed to abandon. We might well pa
ate, if human imagination could conceive the e
and ruin from its total overthrow, before we pr
of destruction. Its duration is worthy also of
tion. Not to go behind the constitution, its date i
instrument. It began on the ever-memorable fou
- the fourth day of July, 1789. The second act
corded in the statute-book, bearing the illustrious si
e Washington, laid the corner-stone of the whole
re might be no mistake about the matter, it w
proclaimed to the American people and to the wo
*cessary* for 'the encouragement and *protection* of
that duties should be laid. It is in vain to urge th
of the measure of the protection then extended
ciple was then established [illegible]

and the subject untried, a greater measure of protection would have been applied, if it had been supposed necessary. Shortly after, the master minds of Jefferson and Hamilton were brought to act on this interesting subject. Taking views of it appertaining to the departments of foreign affairs and of the treasury, which they respectively filled, they presented, severally, reports which yet remain monuments of their profound wisdom, and came to the same conclusion of protection to American industry. Mr. Jefferson argued that foreign restrictions, foreign prohibitions, and foreign high duties, ought to be met at home by American restrictions, American prohibitions, and American high duties. Mr. Hamilton, surveying the entire ground, and looking at the inherent nature of the subject, treated it with an ability, which, if ever equalled, has not been surpassed, and earnestly recommended protection.

The wars of the French revolution commenced about this period, and streams of gold poured into the United States through a thousand channels, opened or enlarged by the successful commerce which our neutrality enabled us to prosecute. We forgot or overlooked, in the general prosperity, the necessity of encouraging our domestic manufactures. Then came the edicts of Napoleon, and the British orders in council; and our embargo, non-intercourse, non-importation, and war, followed in rapid succession. These national measures, amounting to a total suspension, for the period of their duration, of our foreign commerce, afforded the most efficacious encouragement to American manufactures; and accordingly they every where sprung up. While these measures of restriction and this state of war continued, the manufacturers were stimulated in their enterprise by every assurance of support, by public sentiment, and by legislative resolves. It was about that period (1808) that South Carolina bore her high testimony to the wisdom of the policy, in an act of her legislature, the preamble of which, now before me, reads:

'Whereas, the establishment and *encouragement* of domestic manufactures, is conducive to the interests of a state, by adding new *incentives to industry*, and as being the means of disposing to advantage the surplus productions of the *agriculturist:* and whereas, in the present unexampled state of the world, their establishment in our country is not only *expedient*, but politic, in rendering us *independent* of foreign nations'.

The legislature, not being competent to afford the most efficacious aid, by imposing duties on foreign rival articles, proceeded to incorporate a company.

Peace, under the treaty of Ghent, returned in 1815, but there did not return with it the golden days which preceded the edicts levelled at our commerce by Great Britain and France. It found all Europe tranquilly resuming the arts and the business of civil life. It found Europe no longer the consumer of our surplus, and the employer of our navigation, but excluding, or heavily

date of the twenty-third of February, 1815, to pr
o the succeeding session of congress, a system c
nable with the actual condition of the country. I
f a whole year to perform the work, consulted r
cturers, and other practical men, and opened an
ondence. The report which he made at the s
as the result of his inquiries and reflections, and
ciples which he thought applicable to the subjec
id, that the tariff of 1816 was a measure of mere
it only reduced the war duties to a peace standa
t the question then was, how much and in what w
ole duties of the war be reduced? Now, also, the
hat articles shall the duties be reduced so as to su
of the future revenue to the wants of the gove
was deemed an inquiry of the first importance, as
how the reduction should be made, so as to secu
gement to our domestic industry. That this was a
the arrangement of the tariff of 1816, I well re
demonstrated by the language of Mr. Dallas.
port:

re few, if any governments, which do not regard the establ
anufactures as a chief object of public policy. The United S
garded it. * * * * * The demands of the cou
ions of supplies from foreign nations was either prohibited or
ave afforded a sufficient inducement for this investment of c
tion of labor: but the inducement, in its necessary extent, must
*ompetition* returns. Upon that change in the condition of the co
of the manufactures, which private citizens under favorabl
uted the property of the nation, becomes a consideration of gene
ed by a recollection of past embarrassments; by the certai
fficulty of reinstating, upon any emergency, the manufactu
wed to perish and pass away,' and so forth.

easure of protection which he proposed

by the representatives of the people; but the bill which they passed was defeated in the senate. It was revived in 1824; the whole ground carefully and deliberately explored, and the bill then introduced, receiving all the sanctions of the constitution, became the law of the land. An amendment of the system was proposed in 1828, to the history of which I refer with no agreeable recollections. The bill of that year, in some of its provisions, was framed on principles directly adverse to the declared wishes of the friends of the policy of protection. I have heard, without vouching for the fact, that it was so framed, upon the advice of a prominent citizen, now abroad, with the view of ultimately defeating the bill, and with assurances that, being altogether unacceptable to the friends of the American system, the bill would be lost. Be that as it may, the most exceptionable features of the bill were stamped upon it, against the earnest remonstrances of the friends of the system, by the votes of southern members, upon a principle, I think, as unsound in legislation as it is reprehensible in ethics. The bill was passed, notwithstanding, it having been deemed better to take the bad along with the good which it contained, than reject it altogether. Subsequent legislation has corrected the error then perpetrated, but still that measure is vehemently denounced by gentlemen who contributed to make it what it was.

Thus, sir, has this great system of protection been gradually built, stone upon stone, and step by step, from the fourth of July, 1789, down to the present period. In every stage of its progress it has received the deliberate sanction of congress. A vast majority of the people of the United States has approved and continue to approve it. Every chief magistrate of the United States, from Washington to the present, in some form or other, has given to it the authority of his name; and, however the opinions of the existing president are interpreted south of Mason and Dixon's line, on the north they are at least understood to favor the establishment of a *judicious* tariff.

The question, therefore, which we are now called upon to determine, is not, whether we shall establish a new and doubtful system of policy, just proposed, and for the first time presented to our consideration, but whether we shall break down and destroy a long established system, patiently and carefully built up and sanctioned, during a series of years, again and again, by the nation and its highest and most revered authorities. And are we not bound deliberately to consider whether we can proceed to this work of destruction without a violation of the public faith? The people of the United States have justly supposed that the policy of protecting their industry against foreign legislation and foreign industry was fully settled, not by a single act, but by repeated and deliberate acts of government, performed at distant and frequent intervals. In full confidence that the policy was firmly and unchangeably fixed,

thousands upon thousands have invested their capital, purchased a vast amount of real and other estate, made permanent establishments, and accommodated their industry. Can we expose to utter and irretrievable ruin this countless multitude, without justly incurring the reproach of violating the national faith?

I shall not discuss the constitutional question. Without meaning any disrespect to those who raise it, if it be debatable, it has been sufficiently debated. The gentleman from South Carolina suffered it to fall unnoticed from his budget; and it was not until after he had closed his speech and resumed his seat, that it occurred to him that he had forgotten it, when he again addressed the senate, and, by a sort of protestation against any conclusion from his silence, put forward the objection. The recent free-trade convention at Philadelphia, it is well known, were divided on the question; and although the topic is noticed in their address to the public, they do not avow their own belief that the American system is unconstitutional, but represent that such is the opinion of respectable portions of the American people. Another address to the people of the United States, from a high source, during the past year, treating this subject, does not assert the opinion of the distinguished author, but states that of others to be, that it is unconstitutional. From which I infer that he did not himself believe it to be unconstitutional.

[Here the vice-president interposed, and remarked, that, if the senator from Kentucky alluded to him, he must say that his opinion was, that the measure was unconstitutional.]

When, sir, I contended with you, side by side, and with perhaps less zeal than you exhibited, in 1816, I did not understand you then to consider the policy forbidden by the constitution.

[The vice-president again interposed, and said, that the constitutional question was not debated at that time, and that he had never expressed an opinion contrary to that now intimated.]

I give way with pleasure to these explanations, which I hope will always be made when I say any thing bearing on the individual opinions of the chair. I know the delicacy of the position, and sympathize with the incumbent, whoever he may be. It is true, the question was not debated in 1816; and why not? Because it was not debatable; it was then believed not fairly to arise. It never has been made as a distinct, substantial, and leading point of objection. It never was made until the discussion of the tariff of 1824, when it was rather hinted at as against the *spirit* of the constitution, than formally announced as being contrary to the provisions of that instrument. What was not dreamed of before, or in 1816, and scarcely thought of in 1824, is now made, by excited

imaginations, to assume the imposing form of a serious constitutional barrier.

Such are the origin, duration, extent, and sanctions, of the policy which we are now called upon to subvert. Its beneficial effects, although they may vary in degree, have been felt in all parts of the union. To none, I verily believe, has it been prejudicial. In the north, every where, testimonials are borne to the high prosperity which it has diffused. There, all branches of industry are animated and flourishing. Commerce, foreign and domestic, active; cities and towns springing up, enlarging and beautifying; navigation fully and profitably employed, and the whole face of the country smiling with improvement, cheerfulness, and abundance. The gentleman from South Carolina has supposed that we in the west derive no advantages from this system. He is mistaken. Let him visit us, and he will find, from the head of La Belle Riviere, at Pittsburgh, to America, at its mouth, the most rapid and gratifying advances. He will behold Pittsburgh itself, Wheeling, Portsmouth, Maysville, Cincinnati, Louisville, and numerous other towns, lining and ornamenting the banks of the noble river, daily extending their limits, and prosecuting, with the greatest spirit and profit, numerous branches of the manufacturing and mechanic arts. If he will go into the interior, in the state of Ohio, he will there perceive the most astonishing progress in agriculture, in the useful arts, and in all the improvements to which they both directly conduce. Then let him cross over into my own, my favorite state, and contemplate the spectacle which is there exhibited. He will perceive numerous villages, not large, but neat, thriving, and some of them highly ornamented; many manufactories of hemp, cotton, wool, and other articles. In various parts of the country, and especially in the Elkhorn region, an endless succession of natural parks; the forests thinned; fallen trees and undergrowth cleared away; large herds and flocks feeding on luxuriant grasses; and interspersed with comfortable, sometimes elegant mansions, surrounded by extensive lawns. The honorable gentleman from South Carolina says, that a profitable trade was carried on from the west, through the Seleuda gap, in mules, horses, and other live stock, which has been checked by the operation of the tariff. It is true, that such a trade was carried on between Kentucky and South Carolina, mutually beneficial to both parties; but, several years ago, resolutions, at popular meetings, in Carolina, were adopted, not to purchase the produce of Kentucky, by way of punishment for her attachment to the tariff. They must have supposed us as stupid as the sires of one of the descriptions of the stock of which that trade consisted, if they imagined that their resolutions would affect *our* principles. Our drovers cracked their whips, blew their horns, and passed the Seleuda gap, to other markets, where better humors existed, and equal or greater profits

were made. I have heard, of your successor in the house of representatives, Mr. President, this anecdote: that he joined in the adoption of those resolutions, but when, about Christmas, he applied to one of his South Carolina neighbors, to purchase the regular supply of pork for the ensuing year, he found that he had to pay two prices for it; and he declared, if *that* were the patriotism on which the resolutions were based, he would not conform to them, and, in point of fact, laid in his annual stock of pork by purchase from the first passing Kentucky drover. The trade, now partially resumed, was maintained by the sale of western productions, on the one side, and Carolina money on the other. From that condition of it, the gentleman from South Carolina might have drawn this conclusion, that an advantageous trade may exist, although one of the parties to it pays in specie for the production which he purchases from the other; and consequently that it does not follow, if we did not purchase British fabrics, that it might not be the interest of England to purchase our raw material of cotton. The Kentucky drover received the South Carolina specie, or, taking bills, or the evidences of deposit in the banks, carried these home, and, disposing of them to the merchant, he brought out goods, of foreign or domestic manufacture, in return. Such is the circuitous nature of trade and remittance, which no nation understands better than Great Britain.

Nor has the system which has been the parent source of so much benefit to other parts of the union, proved injurious to the cotton-growing country. I cannot speak of South Carolina itself, where I have never been, with so much certainty; but of other portions of the union in which cotton is grown, especially those bordering on the Mississippi, I can confidently speak. If cotton-planting is less profitable than it was, that is the result of increased production; but I believe it to be still the most profitable investment of capital of any branch of business in the United States. And if a committee were raised, with power to send for persons and papers, I take it upon myself to say, that such would be the result of the inquiry. In Kentucky, I know many individuals who have their cotton-plantations below, and retain their residence in that state, where they remain during the sickly season; and they are all, I believe, without exception, doing well. Others, tempted by their success, are constantly engaging in the business, while scarcely any comes from the cotton region to engage in western agriculture. A friend, now in my eye, a member of this body, upon a capital of less than seventy thousand dollars, invested in a plantation and slaves, made, the year before last, sixteen thousand dollars. A member of the other house, I understand, who, without removing himself, sent some of his slaves to Mississippi, made last year about twenty per cent. Two friends of mine, in the latter state, whose annual income is from thirty to sixty thousand dollars, being desirous to

curtail their business, have offered estates for sale which they are willing to show, by regular vouchers of receipt and disbursement, yield eighteen per cent. per annum. One of my most opulent acquaintances, in a county adjoining that in which I reside, having married in Georgia, has derived a large portion of his wealth from a cotton estate there situated.

The loss of the tonnage of Charleston, which has been dwelt on, does not proceed from the tariff; it never had a very large amount, and it has not been able to retain what it had, in consequence of the operation of the principle of free trade on its navigation. Its tonnage has gone to the more enterprising and adventurous tars of the northern states, with whom those of the city of Charleston could not maintain a successful competition, in the freedom of the coasting trade, existing between the different parts of the union. That this must be the true cause, is demonstrated by the fact, that, however it may be with the port of Charleston, our coasting tonnage, generally, is constantly increasing. As to the foreign tonnage, about one half of that which is engaged in the direct trade between Charleston and Great Britain, is English; proving that the tonnage of South Carolina cannot maintain itself in a competition, under the free and equal navigation secured by our treaty with that power.

When gentlemen have succeeded in their design of an immediate or gradual destruction of the American system, what is their substitute? Free trade? Free trade! The call for free trade is as unavailing, as the cry of a spoiled child in its nurse's arms, for the moon, or the stars that glitter in the firmament of heaven. It never has existed, it never will exist. Trade implies at least two parties. To be free, it should be fair, equal, and reciprocal. But if we throw our ports wide open to the admission of foreign productions, free of all duty, what ports of any other foreign nation shall we find open to the free admission of our surplus produce? We may break down all barriers to free trade on our part, but the work will not be complete, until foreign powers shall have removed theirs. There would be freedom on one side, and restrictions, prohibitions, and exclusions, on the other. The bolts and the bars and the chains of all other nations will remain undisturbed. It is, indeed, possible, that our industry and commerce would accommodate themselves to this unequal and unjust state of things; for, such is the flexibility of our nature, that it bends itself to all circumstances. The wretched prisoner incarcerated in a jail, after a long time, becomes reconciled to his solitude, and regularly notches down the passing days of his confinement.

Gentlemen deceive themselves. It is not free trade that they are recommending to our acceptance. It is, in effect, the British colonial system that we are invited to adopt; and, if their policy prevail, it will lead substantially to the recolonization of these

states, under the commercial dominion of Great Britain. And whom do we find some of the principal supporters, out of congress, of this foreign system? Mr. President, there are some foreigners who always remain exotics, and never become naturalized in our country; whilst, happily, there are many others who readily attach themselves to our principles and our institutions. The honest, patient, and industrious German, readily unites with our people; establishes himself upon some of our fat land, fills his capacious barn, and enjoys in tranquillity the abundant fruits which his diligence gathers around him; always ready to fly to the standard of his adopted country, or of its laws, when called by the duties of patriotism. The gay, the versatile, the philosophic Frenchman. accommodating himself cheerfully to all the vicissitudes of life, incorporates himself without difficulty, in our society. But, of all foreigners, none amalgamate themselves so quickly with our people as the natives of the Emerald isle. In some of the visions which have passed through my imagination, I have supposed that Ireland was originally part and parcel of this continent, and that, by some extraordinary convulsion of nature, it was torn from America, and, drifting across the ocean, was placed in the unfortunate vicinity of Great Britain. The same open-heartedness; the same generous hospitality; the same careless and uncalculating indifference about human life; characterize the inhabitants of both countries. Kentucky has been sometimes called the Ireland of America. And I have no doubt, that if the current of emigration were reversed, and set from America upon the shores of Europe instead of bearing from Europe to America, every American emigrant to Ireland would there find, as every Irish emigrant here finds, a hearty welcome and a happy home!

But, sir, the gentleman to whom I am about to allude, although long a resident of this country, has no feelings, no attachments, no sympathies, no principles, in common with our people. Nearly fifty years ago, Pennsylvania took him to her bosom, and warmed, and cherished, and honored him; and how does he manifest his gratitude? By aiming a vital blow at a system endeared to her by a thorough conviction that it is indispensable to her prosperity. He has filled, at home and abroad, some of the highest offices under this government, during thirty years, and he is still at heart an alien. The authority of his name has been invoked, and the labors of his pen, in the form of a memorial to congress, have been engaged, to overthrow the American system, and to substitute the foreign. Go home to your native Europe, and there inculcate upon her sovereigns your Utopian doctrines of free trade, and when you have prevailed upon them to unseal their ports, and freely admit the produce of Pennsylvania and other states, come back, and we shall be prepared to become converts, and to adopt your faith.

A Mr. Sarchet also makes no inconsiderable figure in the common attack upon our system. I do not know the man, but I understand he is an unnaturalized emigrant, from the island of Guernsey, situated in the channel which divides France and England. The principal business of the inhabitants is that of driving a contraband trade with the opposite shores, and Mr. Sarchet, educated in that school, is, I have been told, chiefly engaged in employing his wits to elude the operation of our revenue laws, by introducing articles at less rates of duty than they are justly chargeable with, which he effects by varying the denominations, or slightly changing their forms. This man, at a former session of the senate, caused to be presented a memorial, signed by some one hundred and fifty pretended workers in iron. Of these, a gentleman made a careful inquiry and examination, and he ascertained that there were only about ten of the denomination represented; the rest were tavern keepers, porters, merchants' clerks, hackney coachmen, and so forth. I have the most respectable authority, in black and white, for this statement.

[Here general Hayne asked, who? and was he a manufacturer? Mr. Clay replied, colonel Murray, of New York, a gentleman of the highest standing, for honor, probity, and veracity; that he did not know whether he was a manufacturer or not, but the gentleman might take him as one.*]

Whether Mr. Sarchet got up the late petition presented to the senate, from the journeymen tailors of Philadelphia, or not, I do not know. But I should not be surprised if it were a movement of his, and if we should find that he has *cabbaged* from other classes of society to swell out the number of signatures.

To the facts manufactured by Mr. Sarchet, and the theories by Mr. Gallatin, there was yet wanting one circumstance to recommend them to favorable consideration, and that was, the authority of some high name. There was no difficulty in obtaining one from a British repository. The honorable gentleman has cited a speech of my lord Goderich, addressed to the British parliament, in favor of free trade, and full of deep regret that old England *could not* possibly conform her practice of rigorous restriction and exclusion to her liberal *doctrines* of unfettered commerce, so earnestly recommended to foreign powers. Sir, I know my lord Goderich very well, although my acquaintance with him was prior to his being summoned to the British house of peers. We both signed the convention between the United States and Great Britain, of 1815. He is an honorable man, frank, possessing but ordinary business talents, about the stature and complexion of the honorable gentleman from South Carolina, a few years older than he, and every drop of blood running in his veins being

* Mr. Clay subsequently understood that colonel Murray was a merchant.

ɔf looking abroad, not merely for manufactured
: sanction of high names, to support favorite theo
and closely observed the British parliament, a
ating from its justly elevated character. I have n
ing, that in all the attributes of order, dignity, pat
ence, the American congress would not suffer, in
, by a comparison with it.

islike this resort to authority, and especially
*ted* authority, for the support of principles of pu
ld greatly prefer to meet gentlemen upon the br
, of experience, and of reason; but, since they wi
ı names and authority, I feel myself compellec
bad example. Allow me to quote from the s
er of the British parliament, bearing the same fa
ny lord Goderich, but whether or not a relation
now. The member alluded to, was arguing
on of the treaty of Methuen — that treaty not l
erests of Portugal than would be the system of ge
st interests of America — and he went on to say:

*s idle for us to endeavor to persuade other nations to join with us*
*s of what was called 'free trade.' Other nations knew, as well as*
*and those who acted with him, what we meant by 'free trade,' wa*
*than, by means of the great advantages we enjoyed, to get a monop*
*for our manufactures, and to prevent them, one and all, from ever b*
*nations.* When the system of reciprocity and free trade had
nch ambassador, his remark was, that the plan was excellent i
it fair in practice, it would be necessary to defer the attem
n for half a century, until France should be on the same footi
in marine, in manufactures, in capital, and the many other pe
nich it now enjoyed. The policy that France acted on, was t
*native* manufactures, and it was a *wise* policy; because, if it
ır manufactures, it would speedily be reduced to the rank of a
and *therefore*, a poor nation, as all must be that depend *exclusi*
America acted, too, upon the same principle with Fran
d for futurity — legislated for an increasing population. Ame

system is fully explained and illustrated in a work published as far back as the year 1750, entitled 'the trade and navigation of Great Britain considered, by Joshua Gee,' with extracts from which I have been furnished by the diligent researches of a friend. It will be seen from these, that the South Carolina policy now, is identical with the long-cherished policy of Great Britain, which remains the same as it was when the thirteen colonies were part of the British empire. In that work the author contends:

'First, that manufactures, in American colonies, should be discouraged or prohibited.

'Great Britain, with its dependencies, is doubtless as well able to subsist within itself, as any nation in Europe. We have an enterprising people, fit for all the arts of peace and war. We have provisions in abundance, and those of the best sort, and are able to raise sufficient for double the number of inhabitants. We have the very best materials for clothing, and want nothing, either for use, or even for luxury, but what we have at home, or might have from our colonies; so that we might make such an intercourse of trade among ourselves, or between us and them, as would maintain a vast navigation. But we ought always to keep a watchful eye over our colonies, to restrain them from setting up any of the manufactures which are carried on in Great Britain; and any such attempts should be crushed in the beginning; for if they are suffered to grow up to maturity, it will be difficult to suppress them.' Pages 177. 8, 9.

'Our colonies are much in the same state Ireland was in, when they began the woollen manufactory, and as their numbers increase, will fall upon manufactures for clothing themselves, if due care be not taken to find employment for them, in raising such productions as may enable them to furnish themselves with all their necessaries from us.'

Then it was the object of the British economists to adapt the means or wealth of the colonists to the supply required by their necessities, and to make the mother country the source of that supply. Now it seems the policy is only so far to be reversed, that we must continue to import necessaries from Great Britain, in order to enable her to purchase raw cotton from us.

'I should, therefore, think it worthy the care of the government, to endeavor, by all possible means, to encourage them in raising of silk, hemp, flax, iron, [only pig, to be hammered in England.] potash, and so forth, by giving them competent bounties in the beginning, and sending over judicious and skilful persons at the public charge, to assist and instruct them in the most proper methods of management, which, in my apprehension, would lay a foundation for establishing the most profitable trade of any we have. And considering the commanding situation of our colonies along the sea-coast, the great convenience of navigable rivers in all of them, the cheapness of land, and the easiness of raising provisions, great numbers of people would transport themselves thither, to settle upon such improvements. Now, as people have been filled with fears that the colonies, if encouraged to raise rough materials, would set up for themselves, a *little regulation* would remove all those jealousies out of the way. They have never thrown or wove any silk, as yet, that we have heard of. Therefore, if a law was made to prohibit the use of every throwster's mill, of doubling or horsling silk with any machine whatever, they would then *send it to us raw*. And as they will have the providing rough materials to themselves, so shall we have the manufacturing of them. If encouragement be given for raising hemp, flax, and so forth, doubtless they will soon begin to manufacture, if not *prevented*. Therefore, to stop the progress of any such manufacture, it is proposed, that no weaver shall have *liberty* to set up any looms, without first registering, at an office kept for that purpose, and the name and place of abode of any journeyman that shall work for him. But if any *particular inhabitant* shall be inclined to have any linen or woollen made of their own spinning, they should not be abridged of the same liberty that they now make

which license shall be renewed once every year, and *pay* fo
at such trade. That all negroes shall be prohibited from v
woollen, or spinning or combing of wool, or working at any n
her than making it into pig or bar iron. That they also be p
uring hats, stockings, or *leather* of any kind. This limita
he planters of any privilege they now enjoy. On the contrai
ustry to promoting and raising those rough materials.'

author then proposes, that the board of trade and
be furnished with statistical accounts of the variou
ictures, to enable them to encourage or depress tl
colonists, and prevent the danger of interference v
y.

oped that this method would allay the *heat* that *some people* ha
g the iron-works on the plantations, and pulling down all their
a violent manner, their estates and properties, preventing the
ting their ploughshares, carts, and other utensils mended, d
ure of ship-building, by depriving them of the liberty of making
: things proper for carrying on that work, by which article rett
asing our woollen manufactures.' Pages 87, 88, 89.

is the picture of colonists dependent upon tl
for their necessary supplies, drawn by a writer
ong the number of those who desired to debar
of building a vessel, erecting a forge, or mending
ut who was willing to promote their growth and
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ing or parent state.

dly, the advantages to Great Britain, from keeping the colonist
r their essential supplies.
examine into the circumstances of the inhabitants of our pla
it will appear, that not one fourth part of their product redou
; for, out of all that comes here, they only carry back clothir
dations for their families, all of which is of the merchandise a
is kingdom.'

'New England, and the northern colonies, have not commodities and products enough to send us, in return, for purchasing their necessary clothing, but are under very great difficulties, and therefore any ordinary sort sell with them. And when they have grown out of *fashion* with us, they are new-fashioned *enough* there.'

Sir, I cannot go on with this disgusting detail. Their refuse goods, their old shop-keepers, their cast-off clothes good enough for us! Was there ever a scheme more artfully devised, by which the energies and faculties of one people should be kept down, and rendered subservient to the pride and the pomp and the power of another? The system then proposed differs only from that which is now recommended in one particular — that was intended to be enforced by power; this would not be less effectually executed by the force of circumstances. A gentleman in Boston (Mr. Lee), the agent of the free-trade convention, from whose exhaustless mint there is a constant issue of reports, seems to envy the blessed condition of dependent Canada, when compared to the oppressed state of this union; and it is a fair inference from the view which he presents, that he would have us hasten back to the golden days of that colonial bondage, which is so well depicted in the work from which I have been quoting. Mr. Lee exhibits two tabular statements, in one of which he presents the high duties which he represents to be paid in the ports of the United States, and in the other, those which are paid in Canada, generally about two per centum *ad valorem*. But did it not occur to him, that the duties levied in Canada are paid chiefly in British manufactures, or on articles passing from one part to another of a common empire? and that, to present a parallel case in the United States, he ought to have shown, that importations made into one state from another, which are now free, are subject to the same or higher duties than are paid in Canada?

I will now, Mr. President, proceed to a more particular consideration of the arguments urged against the protective system, and an inquiry into its practical operation, especially on the cotton-growing country. And as I wish to state and meet the argument fairly, I invite the correction of my statement of it, if necessary. It is alleged, that the system operates prejudicially to the cotton planter, by diminishing the foreign demand for his staple; that we cannot sell to Great Britain unless we buy from her; that the import duty is equivalent to an export duty, and falls upon the cotton grower; that South Carolina pays a disproportionate quota of the public revenue; that an abandonment of the protective policy would lead to an augmentation of our exports, of an amount not less than one hundred and fifty millions of dollars; and, finally, that the south cannot partake of the advantages of manufacturing, if there be any. Let us examine these various propositions in detail. First, that the foreign demand for cotton is diminished, and that we cannot sell to Great Britain unless we buy from her.

The demand of both our great foreign customers is constantly and annually increasing. It is true, that the ratio of the increase may not be equal to that of production; but this is owing to the fact, that the power of producing the raw material is much greater, and is, therefore, constantly in advance of the power of consumption. A single fact will illustrate. The average produce of laborers engaged in the cultivation of cotton, may be estimated at five bales, or fifteen hundred weight to the hand. Supposing the annual average consumption of each individual who uses cotton cloth, to be five pounds, one hand can produce enough of the raw material to clothe three hundred.

The argument comprehends two errors, one of fact and the other of principle. It assumes that we do not in fact purchase of Great Britain. What is the true state of the case? There are certain, but very few articles which it is thought sound policy requires that we should manufacture at home, and on these the tariff operates. But, with respect to all the rest, and much the larger number of articles of taste, fashion, and utility, they are subject to no other than revenue duties, and are freely introduced. I have before me from the treasury a statement of our imports from England, Scotland, and Ireland, including ten years, preceding the last, and three quarters of the last year, from which it will appear that, although there are some fluctuations in the amount of the different years, the largest amount imported in any one year has been since

which we are now required to observe in regard to her? The exports to the united kingdom, as appears from the same treasury statement just adverted to, during eleven years, from 1821 to 1831, and exclusive of the fourth quarter of the last year, fall short of the amount of imports by upwards of forty-six millions of dollars, and the total amount, when the returns of that quarter are received, will exceed fifty millions of dollars! It is surprising how we have been able to sustain, for so long a time, a trade so very unequal. We must have been absolutely ruined by it, if the unfavorable balance had not been neutralized by more profitable commerce with other parts of the world. Of all nations, Great Britain has the least cause to complain of the trade between the two countries. Our imports from that single power are nearly one third of the entire amount of our importations from all foreign countries together. Great Britain constantly acts on the maxim of buying only what she wants and cannot produce, and selling to foreign nations the utmost amount she can. In conformity with this maxim, she excludes articles of prime necessity produced by us, equally if not more necessary than any of her industry which we tax, although the admission of those articles would increase our ability to purchase from her, according to the argument of gentlemen.

If we purchased still less from Great Britain than we do, and our conditions were reversed, so that the value of her imports from this country exceeded that of her exports to it, she would only then be compelled to do what we have so long done, and what South Carolina does, in her trade with Kentucky, make up for the unfavorable balance by trade with other places and countries. How does she now dispose of the one hundred and sixty millions of dollars worth of cotton fabrics, which she annually sells? Of that amount the United States do not purchase five per centum. What becomes of the other ninety-five per centum? Is it not sold to other powers, and would not their markets remain, if ours were totally shut? Would she not continue, as she now finds it her interest, to purchase the raw material from us, to supply those markets? Would she be guilty of the folly of depriving herself of markets to the amount of upwards of one hundred and fifty millions of dollars, because we refused her a market for some eight or ten millions?

But if there were a diminution of the British demand for cotton equal to the loss of a market for the few British fabrics which are within the scope of our protective policy, the question would still remain, whether the cotton-planter is not amply indemnified by the creation of additional demand elsewhere? With respect to the cotton-grower, it is the *totality* of the demand, and not its *distribution*, which affects his interests. If any system of policy will augment the aggregate of the demand, that system is favorable to his interests, although its tendency may be to vary the theatre of the demand. It could not, for example, be injurious to him, if,

stead of Great Britain continuing to receive the entire quantity cotton which she now does, two or three hundred thousand les of it were taken to the other side of the channel, and increased that extent the French demand. It would be better for him, cause it is always better to have several markets than one. Now instead of a transfer to the opposite side of the channel, of those o or three hundred thousand bales, they are transported to the rthern states, can that be injurious to the cotton-grower? Is it t better for him? Is it not better to have a market at home, affected by war, or other foreign causes, for that amount of his ple?

If the establishment of American manufactures, therefore, had e sole effect of creating a new and an American demand for tton, *exactly* to the same extent in which it lessened the British mand, there would be no just cause of complaint against the riff. The gain in one place would precisely equal the loss in the her. But the true state of the matter is much more favorable to e cotton-grower. It is calculated that the cotton manufactories the United States absorb at least two hundred thousand bales cotton annually. I believe it to be more. The two ports of oston and Providence alone received during the last year near one ndred and ten thousand bales. The amount is annually creasing. The raw material of that two hundred thousand bales

number of objects of his consumption from his fellow-citizens, and they in turn purchase his fabrics. Putting it upon the ground merely of supplying those with necessary articles who could not otherwise obtain them, ought there to be from any quarter an objection to the only system by which that object can be accomplished? But can there be any doubt, with those who will reflect, that the actual amount of cotton consumed is increased by the home manufacture? The main argument of gentlemen is founded upon the idea of mutual ability resulting from mutual exchanges. They would furnish an ability to foreign nations by purchasing from them, and I, to our own people, by exchanges at home. If the American manufacture were discontinued, and that of England were to take its place, how would she sell the additional quantity of twenty-four millions of cotton goods, which we now make? To us? That has been shown to be impracticable. To other foreign nations? She has already pushed her supplies to them to the utmost extent. The ultimate consequence would then be, to diminish the total consumption of cotton, to say nothing now of the reduction of price that would take place by throwing into the ports of Great Britain the two hundred thousand bales, which, no longer being manufactured in the United States, would go thither.

Second, that the import duty is equivalent to an export duty, and falls on the producer of cotton.

[Here general Hayne explained, and said, that he never contended that an import duty was equivalent to an export duty, under all circumstances; he had explained in his speech his ideas of the precise operation of the existing system. To which Mr. Clay replied, that he had seen the argument so stated in some of the ingenious essays from the South Carolina press, and would therefore answer it.]

The framers of our constitution, by granting the power to congress to lay imports, and prohibiting that of laying an export duty, manifested that they did not regard them as equivalent. Nor does the common sense of mankind. An export duty fastens upon, and incorporates itself with, the article on which it is laid. The article cannot escape from it—it pursues and follows it, wherever the article goes; and if, in the foreign market, the supply is above or just equal to the demand, the amount of the export duty will be a clear deduction to the exporter from the price of the article. But an import duty on a foreign article leaves the exporter of the domestic article free, first, to import specie; secondly, goods which are free from the protecting duty; or, thirdly, such goods as, being chargeable with the protecting duty, he can sell at home, and throw the duty on the consumer.

But, it is confidently argued that the import duty falls upon the grower of cotton; and the case has been put in debate, and again and again in conversation, of the South Carolina planter, who exports one hundred bales of cotton to Liverpool, exchanges them

or one hundred bales of merchandise, and when he brings them ome, being compelled to leave at the custom-house forty bales in ne form of duties. The argument is founded on the assumption nat a duty of forty per centum amounts to a subtraction of forty from ne one hundred bales of merchandise. The first objection to it is, nat it supposes a case of barter, which never occurs. If it be eplied, that it nevertheless occurs in the operations of commerce, ne answer would be that, since the export of Carolina cotton is hiefly made by New York or foreign merchants, the loss stated, f it really accrued, would fall upon them, and not upon the planter. But, to test the correctness of the hypothetical case, let us suppose nat the duty, instead of forty per centum, should be one hundred and fty, which is asserted to be the duty in some cases. Then, the lanter would not only lose the whole hundred bales of merchanise, which he had gotten for his hundred bales of cotton, but he vould have to purchase, with other means, an additional fifty bales, n order to enable him to pay the duties accruing on the proceeds f the cotton. Another answer is, that if the *producer* of cotton in America, exchanged against English fabrics, pays the duty, the *roducer* of those fabrics also pays it, and then it is twice paid. Such must be the consequence, unless the principle is true on one ide of the Atlantic, and false on the other. The true answer is, nat the exporter of an article, if he invests its proceeds in a foreign

horses, oxen, wages of overseer, &c. Estimating the exports of South Carolina at eight millions, one third is two million six hundred and sixty-six thousand six hundred and sixty-six dollars; of which one fourth will be six hundred and sixty-six thousand six hundred and sixty-six and two thirds dollars. Now, supposing the protecting duty to be fifty per centum, and that it all enters into the price of the article, the amount paid by South Carolina would only be three hundred and thirty-three thousand three hundred and thirty-three and one third dollars. But the total revenue of the United States may be stated at twenty-five millions, of which the proportion of South Carolina, whatever standard, whether of wealth or population, be adopted, would be about one million. Of course, on this view of the subject, she actually pays only about one-third of her fair and legitimate share. I repeat, that I have no personal knowledge of the habits of actual expenditure in South Carolina; they may be greater than I have stated, in respect to other parts of the cotton country; but if they are, that fact does not arise from any defect in the system of public policy.

Fourth. An abandonment of the American system, it is urged, would lead to an addition to our exports of one hundred and fifty millions of dollars. The amount of one hundred and fifty millions of cotton in the raw state, would produce four hundred and fifty millions in the manufactured state, supposing no greater measure of value to be communicated, in the manufactured form, than that which our industry imparts. Now sir, where would markets be found for this vast addition to the supply? Not in the United States, certainly, nor in any other quarter of the globe, England having already everywhere pressed her cotton manufactures to the utmost point of repletion. We must look out for new worlds, seek for new and unknown races of mortals, to consume this immense increase of cotton fabrics.

[General Hayne said, that he did not mean that the increase of one hundred and fifty millions to the amount of our exports would be of cotton alone, but of other articles.]

What *other articles?* Agricultural produce — bread-stuffs, beef and pork, and so forth? *Where* shall we find markets for them? *Whither* shall we go? To *what* country, whose ports are not hermetically sealed against their admission? Break down the home-market and you are without resource. Destroy all other interests in the country, for the imaginary purpose of advancing the cotton-planting interest, and you inflict a positive injury, without the smallest practical benefit to the cotton-planter. Could Charleston, or the whole south, when all other markets are prostrated, or shut against the reception of the surplus of our farmers, receive that surplus? Would they buy more than they might want for their own consumption? Could they find markets which other parts of the

union could not? Would gentlemen *force* the freemen of all north of James river, east and west, like the miserable slave, on the Sabbath day, to repair to Charleston, with a turkey under his arm, or a pack upon his back, and beg the clerk of some English or Scotch merchant, living in his gorgeous palace, or rolling in his splendid coach in the streets, to exchange his '*truck*' for a bit of flannel to cover his naked wife and children! No! I am sure that I do no more than justice to their hearts, when I believe that they would reject what I believe to be the inevitable effects of their policy.

Fifth. But it is contended, in the last place, that the south cannot, from physical and other causes, engage in the manufacturing arts. I deny the premises, and I deny the conclusion. I deny the fact of inability; and, if it existed, I deny the conclusion, that we must, therefore, break down our manufactures, and nourish those of foreign countries. The south possesses, in an extraordinary degree, two of the most important elements of manufacturing industry — water-power and labor. The former gives to our whole country a most decided advantage over Great Britain. But a single experiment, stated by the gentleman from South Carolina, in which a faithless slave put the torch to a manufacturing establishment, has discouraged similar enterprises. We have in Kentucky the same description of population, and we employ them, almost exclu-

country? Recall to your recollection the fourth of March, 1829, when the lank, lean, famished forms, from fen and forest, and the four quarters of the union, gathered together in the halls of patronage; or stealing by evening's twilight into the apartments of the president's mansion, cried out, with ghastly faces, and in sepulchral tones, 'give us bread! give us treasury pap! give us our reward!' England's bard was mistaken; ghosts will sometimes come, called or uncalled. Go to the families who were driven from the employments on which they were dependent for subsistence, in consequence of their exercise of the dearest right of freemen. Go to mothers, while hugging to their bosoms their starving children. Go to fathers, who, after being disqualified by long public service for any other business, were stripped of their humble places, and then sought, by the minions of authority, to be stripped of all that was left them — their good names — and ask, what mercy was shown to them! As for myself, born in the midst of the revolution, the first air that I ever breathed on my native soil of Virginia having been that of liberty and independence, I never expected justice, nor desired mercy, at their hands; and scorn the wrath and defy the oppression of power.

I regret, Mr. President, that one topic has, I think, unnecessarily been introduced into this debate. I allude to the charge brought against the manufacturing system, as favoring the growth of aristocracy. If it were true, would gentlemen prefer supporting foreign accumulations of wealth, by that description of industry, rather than in their own country? But is it correct? The joint stock companies of the north, as I understand them, are nothing more than associations, sometimes of hundreds, by means of which the small earnings of many are brought into a common stock, and the associates, obtaining corporate privileges, are enabled to prosecute, under one superintending head, their business to better advantage. Nothing can be more essentially democratic or better devised to counterpoise the influence of individual wealth. In Kentucky, almost every manufactory known to me, is in the hands of enterprising and self-made men, who have acquired whatever wealth they possess by patient and diligent labor. Comparisons are odious, and but in defence would not be made by me. But is there more tendency to aristocracy in a manufactory, supporting hundreds of freemen, or in a cotton plantation, with its not less numerous slaves, sustaining perhaps only two white families — that of the master and the overseer?

I pass, with pleasure, from this disagreeable topic, to two general propositions which cover the entire ground of debate. The first is, that, under the operation of the American system, the objects which it protects and fosters are brought to the consumer at cheaper prices than they commanded prior to its introduction, or, than they would command if it did not exist. If that be true, ought not the

country to be contented and satisfied with the system, unless the second proposition, which I mean presently also to consider, is unfounded? And that is, that the tendency of the system is to sustain, and that it has upheld, the prices of all our agricultural and other produce, including cotton.

And is the fact not indisputable, that all essential objects of consumption affected by the tariff, are cheaper and better since the act of 1824, than they were for several years prior to that law? I appeal for its truth to common observation, and to all practical men. I appeal to the farmer of the country, whether he does not purchase on better terms his iron, salt, brown sugar, cotton goods, and woollens, for his laboring people? And I ask the cotton-planter if he has not been better and more cheaply supplied with his cotton-bagging? In regard to this latter article, the gentleman from South Carolina was mistaken, in supposing that I complained that, under the existing duty, the Kentucky manufacturer could not compete with the Scotch. The Kentuckian furnishes a more substantial and a cheaper article, and at a more uniform and regular price. But it was the frauds, the violations of law, of which I did complain; not smuggling, in the common sense of that practice, which has something bold, daring, and enterprising in it, but mean, barefaced cheating, by fraudulent invoices and false denominations.

I plant myself upon this fact of cheapness and superiority, as

have three classes, best-best, and best, and ordinary. It is the latter which is imported. Of the whole amount imported, there is only about four thousand tons of foreign iron that pays the high duty, the residue paying only a duty of about thirty per centum, estimated on the prices of the importation of 1829. Our iron ore is superior to that of Great Britain, yielding often from sixty to eighty per centum, while theirs produces only about twenty-five. This fact is so well known, that I have heard of recent exportations of iron ore to England.

It has been alleged, that bar iron, being a raw material, ought to be admitted free, or with low duties, for the sake of the manufacturers themselves. But I take this to be the true principle, that if our country is producing a raw material of prime necessity, and with reasonable protection, can produce it in sufficient quantity to supply our wants, that raw material ought to be protected, although it may be proper to protect the article also out of which it is manufactured. The tailor will ask protection for himself, but wishes it denied to the grower of wool and the manufacturer of broadcloth. The cotton planter enjoys protection for the raw material, but does not desire it to be extended to the cotton manufacturer. The ship builder will ask protection for navigation, but does not wish it extended to the essential articles which enter into the construction of his ship. Each in his proper vocation solicits protection, but would have it denied to all other interests which are supposed to come into collision with his.

Now the duty of the statesman is, to elevate himself above these petty conflicts; calmly to survey all the various interests, and deliberately to proportion the measures of protection to each, according to its nature and to the general wants of society. It is quite possible that, in the degree of protection which has been afforded to the various workers in iron, there may be some error committed, although I have lately read an argument of much ability, proving that no injustice has really been done to them. If there be, it ought to be remedied.

The next article to which I would call the attention of the senate, is that of cotton fabrics. The success of our manufacture of coarse cottons is generally admitted. It is demonstrated by the fact that they meet the cotton fabrics of other countries in foreign markets, and maintain a successful competition with them. There has been a gradual increase of the exports of this article, which is sent to Mexico and the South American republics, to the Mediterranean, and even to Asia. The remarkable fact was lately communicated to me, that the same individual, who twenty-five years ago was engaged in the importation of cotton cloth from Asia for American consumption, is now engaged in the exportation of coarse American cottons to Asia, for Asiatic consumption! And my honorable friend from Massachusetts, now

a my eye, (Mr. Silsbee,) informed me, that on his departure from ome, among the last orders which he gave, one was for the xportation of coarse cottons to Sumatra, in the vicinity of Calcutta! hold in my hand a statement, derived from the most authentic ource, showing that the identical description of cotton cloth, which old in 1817 at twenty-nine cents per yard, was sold in 1819 at wenty-one cents, in 1821 at nineteen and a half cents, in 1823 at eventeen cents, in 1825 at fourteen and a half cents, in 1827 at hirteen cents, in 1829 at nine cents, in 1830 at nine and a half ents, and in 1831 at from ten and a half to eleven. Such is the vonderful effect of protection, competition, and improvement in skill, ombined! The year 1829 was one of some suffering to this branch f industry, probably owing to the principle of competition being ushed too far. Hence we observe a small rise in the article of he next two years. The introduction of calico printing into the Jnited States, constitutes an important era in our manufacturing ndustry. It commenced about the year 1825, and has since made uch astonishing advances, that the whole quantity now annually rinted is but little short of forty millions of yards — about two hirds of our whole consumption. It is a beautiful manufacture, ombining great mechanical skill with scientific discoveries in hemistry. The engraved cylinders for making the impression equire much taste, and put in requisition the genius of the fine

threads, and replace the exhausted balls or broaches. At stated hours they are called to their meals, and go and return with light and cheerful step. At night they separate, and repair to their respective houses, under the care of a mother, guardian, or friend. 'Six days shalt thou labor and do all that thou hast to do, but the seventh day is the sabbath of the Lord thy God.' Accordingly, we behold them, on that sacred day, assembled together in His temples, and in devotional attitudes and with pious countenances offering their prayers to heaven for all its blessings; of which it is not the least, that a system of policy has been adopted by their country, which admits of their obtaining a comfortable subsistence. Manufactures have brought into profitable employment a vast amount of female labor, which, without them, would be lost to the country.

In respect to woollens, every gentleman's own observation and experience will enable him to judge of the great reduction of price which has taken place in most of these articles, since the tariff of 1824. It would have been still greater, but for the high duty on the raw material, imposed for the particular benefit of the farming interest. But, without going into particular details, I shall limit myself to inviting the attention of the senate to a single article of general and necessary use. The protection given to flannels in 1828 was fully adequate. It has enabled the American manufacturer to obtain complete possession of the American market; and now, let us look at the effect. I have before me a statement from a highly respectable mercantile house, showing the price of four descriptions of flannel during six years. The average price of them, in 1826, was thirty-eight cents and three quarters; in 1827, thirty-eight; in 1828, (the year of the tariff,) forty-six; in 1829, thirty-six; in 1830, (notwithstanding the advance in the price of wool,) thirty-two; and in 1831, thirty-two and one quarter. These facts require no comments. I have before me another statement of a practical and respectable man, well versed in the flannel manufacture in America and England, demonstrating that the cost of manufacture is precisely the same in both countries; and that, although a yard of flannel which would sell in England at fifteen cents, would command here twenty-two, the difference of seven cents is the exact difference between the cost in the two countries, of the six ounces of wool contained in a yard of flannel.

Brown sugar, during ten years, from 1792 to 1802, with a duty of one and a half cents per pound, averaged fourteen cents per pound. The same article, during ten years, from 1820 to 1830, with a duty of three cents, has averaged only eight cents per pound. Nails, with a duty of five cents per pound, are selling at six cents. Window glass, eight by ten, prior to the tariff of 1824, sold at twelve or thirteen dollars per hundred feet; it now sells for three dollars seventy-five cents.

The gentleman from South Carolina, sensible of the incontestable fact of the very great reduction in the price of the necessaries of life, protected by the American system, has felt the full force of it, and has presented various explanations of the causes to which he ascribes it. The first is, the diminished production of the precious metals, in consequence of the distressed state of the countries in which they are extracted, and the consequent increase of their value, relative to that of the commodities for which they are exchanged. But, if this be the true cause of the reduction of price, its operation ought to have been general, on all objects, and of course upon cotton among the rest. And, in point of fact, the diminished price of that staple is not greater than the diminution of the value of other staples of our agriculture. Flour, which commanded some years ago, ten or twelve dollars per barrel, is now sold for five. The fall of tobacco has been still more. The kite-foot of Maryland, which sold at from sixteen to twenty dollars per hundred, now produces only four or five. That of Virginia has sustained an equal decline. Beef, pork, every article almost, produced by the farmer, has decreased in value. Ought not South Carolina, then, to submit quietly to a state of things which is general, and proceeds from an uncontrollable cause? Ought she to ascribe to the 'accursed' tariff, what results from the calamities of civil and foreign war, raging in many countries?

she not by her skill and extraordinary adaptation to the arts, in truth, largely contributed to it?

This brings me to consider what I apprehend to have been the most efficient of all the causes in the reduction of the prices of manufactured articles, and that is COMPETITION. By competition, the total amount of the supply is increased, and by increase of the supply, a competition in the sale ensues, and this enables the consumer to buy at lower rates. Of all human powers operating on the affairs of mankind, none is greater than that of competition. It is action and reaction. It operates between individuals in the same nation, and between different nations. It resembles the meeting of the mountain torrent, grooving, by its precipitous motion, its own channel, and ocean's tide. Unopposed, it sweeps every thing before it; but, counterpoised, the waters become calm, safe, and regular. It is like the segments of a circle or an arch; taken separately, each is nothing; but in their combination they produce efficiency, symmetry, and perfection. By the American system this vast power has been excited in America, and brought into being to act in coöperation or collision with European industry. Europe acts within itself, and with America; and America acts within itself, and with Europe. The consequence is the reduction of prices in both hemispheres. Nor is it fair to argue from the reduction of prices in Europe, to her own presumed skill and labor exclusively. We affect her prices, and she affects ours. This must always be the case, at least in reference to any articles as to which there is not a total non-intercourse; and if our industry, by diminishing the demand for her supplies, should produce a diminution in the price of those supplies, it would be very unfair to ascribe that reduction to her ingenuity, instead of placing it to the credit of our own skill and *excited* industry.

Practical men understand very well this state of the case, whether they do or do not comprehend the causes which produce it. I have in my possession a letter from a respectable merchant, well known to me, in which he says, after complaining of the operation of the tariff of 1828, on the articles to which it applies, some of which he had imported, and that his purchases having been made in England, before the passage of that tariff was known, it produced such an effect upon the English market, that the articles could not be resold without loss, he adds: 'for it *really* appears that, when *additional* duties are laid upon an article, it then becomes *lower* instead of *higher*.' This would not probably happen, where the supply of the foreign article did not exceed the home demand, unless upon the supposition of the increased duty having *excited* or *stimulated* the measure of the home production.

The great law of *price* is determined by supply and demand. Whatever affects either, affects the price. If the supply is increased, the demand remaining the same, the price declines; if the demand

ı increased, the supply remaining the same, the price advances; ' both supply and demand are undiminished, the price is stationary, nd the price is influenced exactly in proportion to the degree of isturbance to the demand or supply. It is, therefore, a great error ) suppose that an existing or new duty *necessarily* becomes a omponent element to its exact amount of price. If the propor- ons of demand and supply are varied by the duty, either in ugmenting the supply, or diminishing the demand, or *vice versa*, rice is affected to the extent of that variation. But the duty never ecomes an integral part of the price, except in the instances where ıe demand and the supply remain after the duty is imposed, recisely what they were before, or the demand is increased, and ıe supply remains stationary.

Competition, therefore, wherever existing, whether at home or broad, is the parent cause of cheapness. If a high duty excites roduction at home, and the quantity of the domestic article exceeds ıe amount which had been previously imported, the price will fall. 'his accounts for an extraordinary fact stated by a senator from Iissouri. Three cents were laid as a duty upon a pound of lead, y the act of 1828. The price at Galena, and the other lead mines, fterwards fell to one and a half cents per pound. Now it is bvious that the duty did not, in this case, enter into the price; for was twice the amount of the price. What produced the fall?

the whole mass. Add, therefore, the eighty or one hundred thousand hogsheads of Louisiana sugar to the entire mass produced in other parts of the world, and it cannot be doubted that a material reduction of the price of the article, throughout Europe and America, would take place. The Louisiana sugar substituting foreign sugar in the home market, to the amount of its annual produce, would force an equal amount of foreign sugar into other markets, which being glutted, the price would necessarily decline, and this decline of price would press portions of the foreign sugar into competition in the United States with Louisiana sugar, the price of which would also be brought down. The fact has been in exact conformity with this theory. But now let us suppose the Louisiana sugar to be entirely withdrawn from the general consumption, what then would happen? A new demand would be created in America for foreign sugar, to the extent of the eighty or one hundred thousand hogsheads made in Louisiana; a less amount by that quantity, would be sent to the European markets, and the price would consequently every where rise. It is not, therefore, those who, by keeping on duties, keep down prices, that tax the people, but those who, by repealing duties, would raise prices, that really impose burdens upon the people.

But it is argued, that if, by the skill, experience, and perfection, which we have acquired in certain branches of manufacture, they can be made as cheap as similar articles abroad, and enter fairly into competition with them, why not repeal the duties as to those articles? And why should we? Assuming the truth of the supposition, the foreign article would not be introduced in the regular course of trade, but would remain excluded by the possession of the home market, which the domestic article had obtained. The repeal, therefore, would have no legitimate effect. But might not the foreign article be imported in vast quantities, to glut our markets, break down our establishments, and ultimately to enable the foreigner to monopolize the supply of our consumption? America is the greatest foreign market for European manufactures. It is that to which European attention is constantly directed. If a great house becomes bankrupt there, its store-houses are emptied, and the goods are shipped to America, where, in consequence of our auctions, and our custom-house credits, the greatest facilities are afforded in the sale of them. Combinations among manufacturers might take place, or even the operations of foreign governments might be directed to the destruction of our establishments. A repeal, therefore, of one protecting duty, from some one or all of these causes, would be followed by flooding the country with the foreign fabric, surcharging the market, reducing the price, and a complete prostration of our manufactories; after which the foreigner would leisurely look about to indemnify himself in the increased prices which he would be enabled to command by his

nonopoly of the supply of our consumption. What American citizen, after the government had displayed this vascillating policy, would be again tempted to place the smallest confidence in the public faith, and adventure once more in this branch of industry?

Gentlemen have allowed to the manufacturing portions of the community no peace; they have been constantly threatened with the overthrow of the American system. From the year 1820, if not from 1816, down to this time, they have been held in a condition of constant alarm and insecurity. Nothing is more prejudicial to the great interests of a nation than unsettled and varying policy. Although every appeal to the national legislature has been responded to in conformity with the wishes and sentiments of the great majority of the people, measures of protection have only been carried by such small majorities as to excite hopes on the one hand, and fears on the other. Let the country breathe, let its vast resources be developed, let its energies be fully put forth, let it have tranquillity, and my word for it, the degree of perfection in the arts which it will exhibit, will be greater than that which has been presented, astonishing as our progress has been. Although some branches of our manufactures might, and in foreign markets now do, fearlessly contend with similar foreign fabrics, there are many others yet in their infancy, struggling with the difficulties which encompass them. We should look at the whole system, and

would do without it, by the creation of a home market; and by the augmentation of wealth produced by manufacturing industry, which enlarges our powers of consumption both of domestic and foreign articles. The importance of the home market is among the established maxims which are universally recognised by all writers and all men. However some may differ as to the relative advantages of the foreign and the home market, none deny to the latter great value and high consideration. It is nearer to us; beyond the control of foreign legislation; and undisturbed by those vicissitudes to which all international intercourse is more or less exposed. The most stupid are sensible of the benefit of a residence in the vicinity of a large manufactory, or of a market town, of a good road, or of a navigable stream, which connects their farms with some great capital. If the pursuits of all men were perfectly the same, although they would be in possession of the greatest abundance of the particular produce of their industry, they might, at the same time, be in extreme want of other necessary articles of human subsistence. The uniformity of the general occupation would preclude all exchanges, all commerce. It is only in the diversity of the vocations of the members of a community that the means can be found for those salutary exchanges which conduce to the general prosperity. And the greater that diversity, the more extensive and the more animating is the circle of exchange. Even if foreign markets were freely and widely open to the reception of our agricultural produce, from its bulky nature, and the distance of the interior, and the dangers of the ocean, large portions of it could never profitably reach the foreign market. But let us quit this field of theory, clear as it is, and look at the practical operation of the system of protection, beginning with the most valuable staple of our agriculture.

In considering this staple, the first circumstance that excites our surprise, is the rapidity with which the amount of it has annually increased. Does not this fact, however, demonstrate that the cultivation of it could not have been so very unprofitable? If the business were ruinous, would more and more have annually engaged in it? The quantity in 1816, was eighty-one millions of pounds; in 1826, two hundred and four millions; and in 1830, near three hundred millions! The ground of greatest surprise is, that it has been able to sustain even its present price with such an enormous augmentation of quantity. It could not have been done but for the combined operation of three causes, by which the consumption of cotton fabrics has been greatly extended, in consequence of their reduced prices: first, competition; second, the improvement of labor-saving machinery; and, thirdly, the low price of the raw material. The crop of 1819, amounting to eighty-eight millions of pounds, produced twenty-one millions of dollars; the crop of 1823, when the amount was swelled to one hundred

and seventy-four millions, (almost double that of 1819,) produced a less sum by more than half a million of dollars; and the crop of 1824, amounting to thirty millions of pounds less than that of the preceding year, produced a million and a half of dollars more.

If there be any foundation for the established law of price, supply, and demand, ought not the fact of this great increase of the supply to account satisfactorily for the alleged low price of cotton? Is it necessary to look beyond that single fact to the tariff, to the diminished price of the mines furnishing the precious metals, or to any other cause, for the solution? This subject is well understood in the south, and although I cannot approve the practice which has been introduced of quoting authority, and still less the authority of newspapers, for favorite theories, I must ask permission of the senate to read an article from a southern newspaper.

[Here general Hayne requested Mr. Clay to give the name of the authority, that it might appear whether it was not some other than a southern paper expressing southern sentiments. Mr Clay stated that it was from the Charleston City Gazette, one, he believed, of the oldest and most respectable prints in that city, although he was not sure what might be its sentiments on the question which at present divides the people of South Carolina. The article comprises a full explanation of the low price of cotton, and assigns to it its true cause—increased production.]

Let us suppose that the home demand for cotton, which has been created by the American system, were to cease, and that the

profitably employed without manufactures. Now, the truth is, that the system *excites* and *creates* labor, and this labor creates wealth, and this new wealth communicates additional ability to consume, which acts on all the objects contributing to human comfort and enjoyment. The amount of cotton imported into the two ports of Boston and Providence alone during the last year, (and it was imported exclusively for the home manufacture,) was one hundred and nine thousand five hundred and seventeen bales.

On passing from that article to others of our agricultural productions, we shall find not less gratifying facts. The total quantity of flour imported into Boston, during the same year, was two hundred and eighty-four thousand five hundred and four barrels, and three thousand nine hundred and fifty-five half barrels; of which, there were from Virginia, Georgetown, and Alexandria, one hundred and fourteen thousand two hundred and twenty-two barrels; of Indian corn, six hundred and eighty-one thousand one hundred and thirty-one bushels; of oats, two hundred and thirty-nine thousand eight hundred and nine bushels; of rye, about fifty thousand bushels; and of shorts, thirty-three thousand four hundred and eighty-nine bushels; into the port of Providence, seventy-one thousand three hundred and sixty-nine barrels of flour; two hundred and sixteen thousand six hundred and sixty-two bushels of Indian corn, and seven thousand seven hundred and seventy-two bushels of rye. And there were discharged at the port of Philadelphia, four hundred and twenty thousand three hundred and fifty-three bushels of Indian corn; two hundred and one thousand eight hundred and seventy-eight bushels of wheat, and one hundred and ten thousand five hundred and fifty-seven bushels of rye and barley. There were slaughtered in Boston during the same year, 1831, (the only northern city from which I have obtained returns,) thirty-three thousand nine hundred and twenty-two beef cattle; fifteen thousand and four hundred calves; eighty-four thousand four hundred and fifty-three sheep, and twenty-six thousand eight hundred and seventy-one swine. It is confidently believed, that there is not a less quantity of southern flour consumed at the north than eight hundred thousand barrels, a greater amount, probably, than is shipped to all the foreign markets of the world together.

What would be the condition of the farming country of the United States — of all that portion which lies north, east, and west of James river, including a large part of North Carolina — if a home market did not exist for this immense amount of agricultural produce? Without that market, where could it be sold? In foreign markets? If their restrictive laws did not exist, their capacity would not enable them to purchase and consume this vast addition to their present supplies, which must be thrown in, or thrown away, but for the home market. But their laws exclude us from their markets. I shall content myself by calling the attention

of the senate to Great Britain only. The duties in the ports of the united kingdom on bread-stuffs are prohibitory, except in times of dearth. On rice, the duty is fifteen shillings sterling per hundred weight, being more than one hundred per centum. On manufactured tobacco it is nine shillings sterling per pound, or about two thousand per centum. On leaf tobacco three shillings per pound, or one thousand two hundred per centum. On lumber, and some other articles, they are from four hundred to fifteen hundred per centum more than on similar articles imported from British colonies. In the British West Indies the duty on beef, pork, hams, and bacon, is twelve shillings sterling per hundred, more than one hundred per centum on the first cost of beef and pork in the western states. And yet Great Britain is the power in whose behalf we are called upon to legislate, so that *we* may enable *her* to purchase our cotton! — Great Britain, that thinks only of herself in her own legislation! When have we experienced justice, much less favor, at her hands? When did she shape her legislation in reference to the interests of any foreign power? She is a great, opulent, and powerful nation; but haughty, arrogant, and supercilious; not more separated from the rest of the world by the sea that girts her island, than she is separated in feeling, sympathy, or friendly consideration of their welfare. Gentlemen, in supposing it impracticable that we should successfully compete with her in manufactures, do injustice to the

system, than without it; I should still argue that high or low prices were themselves relative — relative to the ability to pay them. It is in vain to tempt, to tantalize us with the lower prices of European fabrics than our own, if we have nothing wherewith to purchase them. If, by the home exchanges, we can be supplied with necessary, even if they are dearer and worse articles of American production than the foreign, it is better than not to be supplied at all. And how would the large portion of our country, which I have described, be supplied, but for the home exchanges? A poor people, destitute of wealth or of exchangeable commodities, has nothing to purchase foreign fabrics with. To them they are equally beyond their reach, whether their cost be a dollar or a guinea. It is in this view of the matter that Great Britain, by her vast wealth, her *excited* and *protected* industry, is enabled to bear a burden of taxation, which, when compared to that of other nations, appears enormous; but which, when her immense riches are compared to theirs, is light and trivial. The gentleman from South Carolina has drawn a lively and flattering picture of our coasts, bays, rivers, and harbors; and he argues that these proclaimed the design of Providence, that we should be a commercial people. I agree with him. We differ only as to the means. He would cherish the foreign, and neglect the internal trade. I would foster both. What is navigation without ships, or ships without cargoes? By penetrating the bosoms of our mountains, and extracting from them their precious treasures; by cultivating the earth, and *securing* a home market for its rich and abundant products; by employing the water power with which we are blessed; by stimulating and protecting our native industry, in all its forms; we shall but nourish and promote the prosperity of commerce, foreign and domestic.

I have hitherto considered the question, in reference only to a state of peace; but a season of war ought not to be entirely overlooked. We have enjoyed near twenty years of peace; but who can tell when the storm of war shall again break forth? Have we forgotten, so soon, the privations to which not merely our brave soldiers and our gallant tars were subjected, but the whole community, during the last war, for the want of absolute necessaries? To what an enormous price they rose! And how inadequate the supply was, at any price! The statesman who justly elevates his views, will look behind as well as forward, and at the existing state of things; and he will graduate the policy, which he recommends, to all the probable exigences which may arise in the republic. Taking this comprehensive range, it would be easy to show that the higher prices of peace, if prices were higher in peace, were more than compensated by the lower prices of war, during which, supplies of all essential articles are indispensable to its vigorous, effectual, and glorious prosecution. I conclude this part of the argument with the hope that my humble exertions have not been altogether unsuccessful in showing,

First, that the policy which we have been considering ought ) continue to be regarded as the genuine American system.

Secondly, that the free trade system, which is proposed as its ıbstitute, ought really to be considered as the British colonial ystem.

Thirdly, that the American system is beneficial to all parts of the nion, and absolutely necessary to much the larger portion.

Fourthly, that the price of the great staple of cotton, and of all ur chief productions of agriculture, has been sustained and pheld, and a decline averted, by the protective system.

Fifthly, that if the foreign demand for cotton has been at all iminished, by the operation of that system, the diminution has een more than compensated, in the additional demand created at ome.

Sixthly, that the constant tendency of the system, by creating ompetition among ourselves, and between American and Euro- ean industry, reciprocally acting upon each other, is to reduce rices of manufactured objects.

Seventhly, that, in point of fact, objects within the scope of the olicy of protection, have greatly fallen in price.

Eighthly, that if, in a season of peace, these benefits are experi- nced, in a season of war, when the foreign supply might be cut ff, they would be much more extensively felt.

I am happy to hear this explanation. But, sir, it is impossible to conceal from our view the facts, that there is a great excitement in South Carolina; that the protective system is openly and violently denounced in popular meetings; and that the legislature itself has declared its purpose of resorting to counteracting measures, a suspension of which has only been submitted to, for the purpose of allowing congress time to *retrace* its steps. With respect to this union, Mr. President, the truth cannot be too generally proclaimed, nor too strongly inculcated, that it is necessary to the *whole* and to all the *parts* — necessary to those parts, indeed, in different degrees, but vitally necessary to *each* — and that threats to disturb or dissolve it, coming from any of the parts, would be quite as indiscreet and improper as would be threats from the residue to exclude those parts from the pale of its benefits. The great principle, which lies at the foundation of all free governments, is, that the majority must govern; from which there is or can be no appeal but to the sword. That majority ought to govern wisely, equitably, moderately, and constitutionally, but govern *it must*, subject only to that terrible appeal. If ever one or several states, being a minority, can, by menacing a dissolution of the union, succeed in forcing an abandonment of great measures, deemed essential to the interests and prosperity of the whole, the union, from that moment, is practically gone. It may linger on, in form and name, but its vital spirit has fled for ever! Entertaining these deliberate opinions, I would entreat the patriotic people of South Carolina — the land of Marion, Sumpter, and Pickens; of Rutledge, Laurens, the Pinkneys and Lowndes; of living and present names, which I would mention if they were not living or present — to pause, solemnly pause! and contemplate the frightful precipice which lies directly before them. To retreat may be painful and mortifying to their gallantry and pride, but it is to retreat to the union, to safety, and to those brethren with whom, or with whose ancestors, they, or their ancestors, have won, on fields of glory, imperishable renown. To advance, is to rush on certain and inevitable disgrace and destruction.

We have been told of deserted castles, of uninhabited halls, and of mansions, once the seats of opulence and hospitality, now abandoned and mouldering in ruins. I never had the honor of being in South Carolina, but I have heard and read of the stories of its chivalry, and of its generous and open-hearted liberality. I have heard, too, of the struggles for power, between the lower and upper country. The same causes which existed in Virginia, with which I have been acquainted, I presume, have had their influence in Carolina. In whose hands now are the once proud seats of Westover Curl, Maycox, Shirley,* and others, on James river, and

* As to Shirley, Mr. Clay acknowledges his mistake, made in the warmth of debate. It is yet the abode of the respectable and hospitable descendants of its former opulent proprietor.

n lower Virginia? Under the operation of laws, abolishing the principle of primogeniture, and providing the equitable rule of an equal distribution of estates, among those in equal degree of consanguinity, they have passed into other and stranger hands. Some of the descendants of illustrious families have gone to the far west, while others, lingering behind, have contrasted their present condition with that of their venerated ancestors. They behold themselves excluded from their fathers' houses, now in the hands of those who were once their fathers' overseers, or sinking into decay; their imaginations paint ancient renown, the fading honors of their name — glories gone by; too poor to live, too proud to work, too high-minded and honorable to resort to ignoble means of acquisition; brave, daring, chivalrous; *what* can be the cause of their present unhappy state? The 'accursed' tariff presents itself to their excited imaginations, and they blindly rush into the ranks of those who, unfurling the banner of nullification, would place a state upon its sovereignty!

The danger to our union does not lie on the side of persistence in the American system, but on that of its abandonment. If, as I have supposed and believe, the inhabitants of all north and east of James river, and all west of the mountains, including Louisiana, are deeply interested in the preservation of that system, would they be reconciled to its overthrow? Can it be expected that two thirds,

indeed might we tremble for the continuance and safety of this union!

And need I remind you, sir, that this dereliction of the duty of protecting our domestic industry, and abandonment of it to the fate of foreign legislation, would be directly at war with leading considerations which prompted the adoption of the present constitution? The states respectively surrendered to the general government the whole power of laying imposts on foreign goods. They stripped themselves of all power to protect their own manufactures, by the most efficacious means of encouragment — the imposition of duties on rival foreign fabrics. Did they create that great trust, did they voluntarily subject themselves to this self-restriction, that the power should remain in the federal government inactive, unexecuted, and lifeless? Mr. Madison, at the commencement of the government, told you otherwise. In discussing at that early period this very subject, he declared that a failure to exercise this power would be a '*fraud*' upon the northern states, to which may now be added the middle and western states.

[Governor Miller asked to what expression of Mr. Madison's opinion Mr. Clay referred; and Mr. Clay replied, his opinion, expressed in the house of representatives in 1789, as reported in Lloyd's Congressional Debates.]

Gentlemen are greatly deceived as to the hold which this system has in the affections of the people of the United States. They represent that it is the policy of New England, and that she is most benefited by it. If there be any part of this union which has been most steady, most unanimous, and most determined in its support, it is Pennsylvania. Why is not that powerful state attacked? Why pass her over, and aim the blow at New England? New England came reluctantly into the policy. In 1824, a majority of her delegation was opposed to it. From the largest state of New England there was but a solitary vote in favor of the bill. That enterprising people can readily accommodate their industry to any policy, provided it be *settled.* They supposed this was fixed, and they submitted to the decrees of government. And the progress of public opinion has kept pace with the developments of the benefits of the system. Now, all New England, at least in this house, (with the exception of one small still voice,) is in favor of the system. In 1824, all Maryland was against it; now the majority is for it. Then, Louisiana, with one exception, was opposed to it; now, without any exception, she is in favor of it. The march of public sentiment is to the south. Virginia will be the next convert; and in less than seven years, if there be no obstacles from political causes, or prejudices industriously instilled, the majority of eastern Virginia will be, as the majority of western Virginia now is, in favor of the American system. North Carolina

will follow later, but not less certainly. Eastern Tennessee is now in favor of the system. And, finally, its doctrines will pervade the whole union, and the wonder will be, that they ever should have been opposed.

I have now to proceed to notice some objections which have been urged against the resolution under consideration. With respect to the amendment which the gentleman from South Carolina has offered, as he has intimated his purpose to modify it, I shall forbear for the present to comment upon it. It is contended that the resolution proposes the repeal of duties on luxuries, leaving those on necessaries to remain, and that it will, therefore, relieve the rich without lessening the burdens of the poor. And the gentleman from South Carolina has carefully selected, for ludicrous effect, a number of the unprotected articles, cosmetics, perfumes, oranges, and so forth. I must say, that this exhibition of the gentleman is not in keeping with the candor which he has generally displayed; that he knows very well that the duties upon these articles are trifling, and that it is of little consequence whether they are repealed or retained. Both systems, the American and the foreign, comprehend some articles which may be deemed luxuries. The senate knows that the unprotected articles which yield the principal part of the revenue, with which this measure would dispense, are coffee, tea, spices, wines, and silks. Of all these articles, wines

power, and *denies* to them luxuries, which they would possess no means to purchase.

The constant complaint of South Carolina against the tariff, is, that it checks importations, and disables foreign powers from purchasing the agricultural productions of the United States. The effect of the resolution will be to increase importations, not so much, it is true, from Great Britain, as from the other powers, but not the less acceptable on that account. It is a misfortune that so large a portion of our foreign commerce concentrates in one nation; it subjects us too much to the legislation and the policy of that nation, and exposes us to the influence of her numerous agents, factors, and merchants. And it is not among the smallest recommendations of the measure before the senate, that its tendency will be to expand our commerce with France, our great revolutionary ally, the land of our Lafayette. There is much greater probability also, of an enlargement of the present demand for cotton in France, than in Great Britain. France engaged later in the manufacture of cotton, and has made, therefore, less progress. She has, moreover, no colonies producing the article in abundance, whose industry she might be tempted to encourage.

The honorable gentleman from Maryland (general Smith), by his reply to a speech which, on the opening of the subject of this resolution, I had occasion to make, has rendered it necessary that I should take some notice of his observations. The honorable gentleman stated that he had been *accused* of partiality to the manufacturing interest. Never was there a more groundless and malicious charge preferred against a calumniated man. Since this question has been agitated in the public councils, although I have often heard from him professions of attachment to this branch of industry, I have never known any member a more uniform, determined, and uncompromising opponent of them, than the honorable senator has invariably been. And if, hereafter, the calumny should be repeated, of his friendship to the American system, I shall be ready to furnish to him, in the most solemn manner, my testimony to his innocence. The honorable gentleman supposed that I had advanced the idea that the *permanent* revenue of this country should be fixed at eighteen millions of dollars. Certainly I had no intention to announce such an opinion, nor do my expressions, fairly interpreted, imply it. I stated, on the occasion referred to, that, estimating the ordinary revenue of the country at twenty-five millions, and the amount of the duties on the unprotected articles proposed to be repealed by the resolution, at seven millions, the latter sum taken from the former would leave eighteen. But I did not intimate any belief that the revenue of the country ought, for the future, to be permanently fixed at that or any other precise sum. I stated that, after having effected so great a reduction, we might pause, cautiously survey the whole ground, and deliberately deter-

nine upon other measures of reduction, some of which I indicated. And I now say, preserve the protective system in full vigor; give as the proceeds of the public domain for internal improvements, or, if you please, partly for that object, and partly for the removal of the free blacks, with their own consent, from the United States; and for one, I have no objection to the reduction of the public revenue to fifteen, to thirteen, or even to nine millions of dollars.

In regard to the scheme of the secretary of the treasury for paying off the whole of the remaining public debt, by the fourth day of March, 1833, including the three per centum, and for that purpose selling the bank stock, I had remarked that, with the exception of the three per centum, there were not more than about four millions of dollars of the debt due and payable within this year, that, to meet this, the secretary had stated in his annual report, that the treasury would have, from the receipts of this year, fourteen millions of dollars, applicable to the principal of the debt; that I did not perceive any urgency for paying off the three per centum by the precise day suggested; and that there was no necessity, according to the plans of the treasury, assuming them to be expedient and proper, to postpone the repeal of the duties on unprotected articles. The gentleman from Maryland imputed to me ignorance of the act of the twenty-fourth of April, 1830, according to which in his opinion the secretary was obliged to

impeachment. Undoubtedly a state of fact may exist, such as there being no public debt remaining to be paid, but the three per centum stock, with a surplus in the treasury, idle and unproductive, in which it might be expedient to apply that surplus to the reimbursement of the three per centums. But whilst the interest of money is at a greater rate than three per centum, it would not, I think, be wise to produce an accumulation of public treasure for such a purpose. The postponement of any reduction of the amount of the revenue, at this session, must, however, give rise to that very accumulation; and it is, therefore, that I cannot perceive the utility of the postponement.

We are told by the gentleman from Maryland, that offers have been made to the secretary of the treasury to exchange three per centums, at their market price of ninety-six per centum, for the bank stock of the government at its market price, which is about one hundred and twenty-six, and he thinks it would be wise to accept them. If the charter of the bank is renewed, that stock will be probably worth much more than its present price; if not renewed, much less. Would it be fair in government, while the question is pending and undecided, to make such an exchange? The difference in value between a stock bearing three per centum and one bearing seven per centum must be really much greater than the difference between ninety-six and one hundred and twenty-six per centum. Supposing them to be perpetual annuities, the one would be worth more than twice the value of the other. But my objection to the treasury plan is, that it is not necessary to execute it — to continue these duties as the secretary proposes. The secretary has a debt of twenty-four millions to pay; he has from the accruing receipts of this year fourteen millions, and we are now told by the senator from Maryland, that this sum of fourteen millions is exclusive of any of the duties accruing this year. He proposes to raise eight millions by sale of the bank stock, and to anticipate from the revenue receivable next year, two millions more. These three items, then, of fourteen millions, eight millions, and two millions, make up the sum required, of twenty-four millions, without the aid of the duties to which the resolution relates.

The gentleman from Maryland insists that the general government has been liberal towards the west in its appropriations of public lands for internal improvements; and, as to fortifications, he contends that the expenditures near the mouth of the Mississippi are for its especial benefit. The appropriations of land to the states of Ohio, Indiana, Illinois, and Alabama, have been liberal; but it is not to be overlooked, that the general government is itself the greatest proprietor of land, and that a tendency of the improvements, which these appropriations were to effect, is to increase the value of the unsold public domain. The erection of the fortifications for the defence of Louisiana, was highly proper; but the

gentleman might as well place to the account of the west, the disbursement for the fortifications intended to defend Baltimore, Philadelphia, and New York, to all which capitals western produce is sent, and in the security of all of which the western people feel a lively interest. They do not object to expenditures for the army, for the navy, for fortifications, or for any other offensive or commercial object on the Atlantic, but they do think that their condition ought also to receive friendly attention from the general government. With respect to the state of Kentucky, not one cent of money, or one acre of land, has been applied to any object of internal improvement within her limits. The subscription to the stock of the canal at Louisville was for an object in which many states were interested. The senator from Maryland complains that he has been unable to obtain any aid for the railroad which the enterprise of Baltimore has projected, and in part executed. That was a great work, the conception of which was bold, and highly honorable, and it deserves national encouragement. But how has the committee of roads and canals, at this session, been constituted? The senator from Maryland possessed a brief authority to organize it, and, if I am not misinformed, a majority of the members composing it, appointed by him, are opposed both to the constitutionality of the power, and the expediency of exercising it.

And now, sir, I would address a few words to the friends of the

Can we not all, whatever may be our favorite theories, cordially unite on this neutral ground? When that is occupied, let us look beyond it, and see if any thing can be done in the field of protection, to modify, to improve it, or to satisfy those who are opposed to the system. Our southern brethren believe that it is injurious to them, and ask its repeal. We believe that its abandonment will be prejudicial to them, and ruinous to every other section of the union. However strong their convictions may be, they are not stronger than ours. Between the points of the preservation of the system and its absolute repeal, there is no principle of union. If it can be shown to operate immoderately on any quarter; if the measure of protection to any article can be demonstrated to be undue and inordinate; it would be the duty of congress to interpose and apply a remedy. And none will coöperate more heartily than I shall in the performance of that duty. It is quite probable that beneficial modifications of the system may be made without impairing its efficacy. But to make it fulfil the purposes of its institution, the measure of protection ought to be adequate. If it be not, all interests will be injuriously affected. The manufacturer, crippled in his exertions, will produce less perfect and dearer fabrics, and the consumer will feel the consequence. This is the spirit, and these are the principles only, on which it seems to me that a settlement of the great question can be made, satisfactorily to all parts of our union.

# ON THE PUBLIC LANDS.

## IN THE SENATE OF THE UNITED STATES, JUNE 20, 1832.

[THE immense tracts of public lands possessed by the United States, situated in the western states and territories, had been acquired by cessions to the general government from the original Atlantic states claiming them; by the purchase of Louisiana and Florida; and by treaties of purchase with the Indians. The principal inducement to their cession by the states was to aid in the payment of the revolutionary war debt, for which they were at first pledged. The prospect of the extinguishment of the public debt during general Jackson's administration induced him, while president, to recommend to congress the cession of the lands unsold to the states in which they were situated; which would have been an act of injustice to the original thirteen states, and some of the others. President Jefferson had in 1806 suggested the appropriation of the proceeds of the sales of the lands to works of internal improvement, and to the support of education.

It will be recollected that in 1832, general Jackson was a candidate for reëlection as president, and Mr. Clay had been nominated in opposition. The opponents of Mr.

of the humblest members of the body; for such, I assure the senate, I feel myself to be.*

It may not be amiss again to allude to the extraordinary reference of the subject of the public lands to the committee of manufactures. I have nothing to do with the motives of honorable senators who composed the majority by which that reference was ordered The decorum proper in this hall obliges me to consider their motives to have been pure and patriotic. But still I must be permitted to regard the proceeding as very unusual. The senate has a standing committee on the public lands, appointed under long established rules. The members of that committee are presumed to be well acquainted with the subject; they have some of them occupied the same station for many years, are well versed in the whole legislation on the public lands, and familiar with every branch of it; and four out of five of them come from the new states. Yet, with a full knowledge of all these circumstances, a reference was ordered by a majority of the senate to the committee on manufactures — a committee than which there is not another standing committee of the senate, whose prescribed duties are more incongruous with the public domain. It happened, in the constitution of the committee of manufactures, that there was not a solitary senator from the new states, and but one from any western state. We earnestly protested against the reference, and insisted upon its impropriety; but we were overruled by the majority, including a majority of senators from the new states. I will not attempt an expression of the feelings excited in my mind on that occasion. Whatever may have been the intention of honorable senators, I could not be insensible to the embarrassment in which the committee of manufactures was placed, and especially myself. Although any other member of that committee could have rendered himself, with appropriate researches and proper time, more competent than I was to understand the subject of the public lands, it was known that, from my local position, I alone was supposed to have any particular knowledge of them. Whatever emanated from the committee was likely, therefore, to be ascribed to me. If the committee should propose a measure of great liberality towards the new states, the old states might complain. If the measure should seem to lean towards the old states, the new might be dissatisfied. And if it inclined to neither class of states, but recommended a plan according to which there would be distributed impartial justice

* This subject had been set down for this day. It was generally expected, in and out of the senate, that it would be taken up. and that Mr. Clay would address the senate. The members were generally in their seats, and the gallery and lobbies crowded. At the customary hour, he moved that the subject pending should be laid on the table, *to take up the land bill.* It was ordered accordingly. At this point of time Mr. Forsyth made a motion, supported by Mr. Tazwell, that the senate proceed to executive business The motion was overruled.

among all the states, it was far from certain that any would be pleased.

Without venturing to attribute to honorable senators the purpose of producing this personal embarrassment, I felt it as a necessary consequence of their act, just as much as if it had been in their contemplation. Nevertheless, the committee of manufactures cheerfully entered upon the duty which, against its will, was thus assigned to it by the senate. And, for the causes already noticed, that of preparing a report and suggesting some measure embracing the whole subject, devolved in the committee upon me. The general features of our land system were strongly impressed on my memory; but I found it necessary to reëxamine some of the treaties, deeds of cession, and laws, which related to the acquisition and administration of the public lands; and then to think of, and, if possible, strike out some project, which, without inflicting injury upon any of the states, might deal equally and justly with all of them. The report and bill, submitted to the senate, after having been previously sanctioned by a majority of the committee, were the results of this consideration. The report, with the exception of the principle of distribution which concludes it, obtained the unanimous concurrence of the committee of manufactures.

This report and bill were hardly read in the senate before they were violently denounced. And they were not considered by the

omissions in its composition; to say something as to the power and rights of the general government over the public domain; to submit a few remarks on the counter report; and to examine the assumptions which it contained, and the principles on which it is founded.

No subject which had presented itself to the present, or perhaps any preceding congress, was of greater magnitude than that of the public lands. There was another, indeed, which possessed a more exciting and absorbing interest; but the excitement was happily but temporary in its nature. Long after we shall cease to be agitated by the tariff, ages after our manufactures shall have acquired a stability and perfection which will enable them successfully to cope with the manufactures of any other country, the public lands will remain a subject of deep and enduring interest. In whatever view we contemplate them, there is no question of such vast importance. As to their extent, there is public land enough to found an empire; stretching across the immense continent, from the Atlantic to the Pacific ocean, from the Gulf of Mexico to the northwestern lakes, the quantity, according to official surveys and estimates, amounting to the prodigious sum of one billion and eighty millions of acres! As to the duration of the interest regarded as a source of comfort to our people, and of public income — during the last year, when the greatest quantity was sold that ever, in one year, had been previously sold, it amounted to less than three millions of acres, producing three millions and a half of dollars. Assuming that year as affording the standard rate at which the lands will be annually sold, it would require three hundred years to dispose of them. But the sales will probably be accelerated from increased population and other causes. We may safely, however, anticipate that long, if not centuries, after the present day, the representatives of our children's children may be deliberating in the halls of congress, on laws relating to the public lands.

The subject in other points of view, challenged the fullest attention of an American statesman. If there were any one circumstance more than all others which distinguished our happy condition from that of the nations of the old world, it was the possession of this vast national property, and the resources which it afforded to our people and our government. No European nation, (possibly with the exception of Russia,) commanded such an ample resource. With respect to the other republics of this continent, we have no information that any of them have yet adopted a regular system of previous survey and subsequent sale of their wild lands, in convenient tracts, well defined, and adapted to the wants of all. On the contrary, the probability is, that they adhere to the ruinous and mad system of old Spain, according to which large unsurveyed districts are granted to favorite individuals,

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acquired a right to a quantity of public lands south of Green river. Neglecting to profit by the unfortunate example of the parent state, she did not order the country to be surveyed previous to its being offered to purchasers. Seduced by some of those wild land projects, of which at all times there have been some afloat, and which, hitherto, the general government alone has firmly resisted, she was tempted to offer her waste lands to settlers, at different prices, under the name of head-rights or preëmptions. As the laws, like most legislation upon such subjects, were somewhat loosely worded, the keen eye of the speculator soon discerned the defects, and he took advantage of them. Instances had occurred, of masters obtaining certificates of head-rights in the name of their slaves, and thus securing the land, in contravention of the intention of the legislature. Slaves, generally, have but one name, being called Tom, Jack, Dick, or Harry. To conceal the fraud, the owner would add Black, or some other cognomination, so that the certificate would read Tom Black, Jack Black, and so forth. The gentleman from Tennessee, (Mr. Grundy,) will remember, some twenty-odd years ago, when we were both members of the Kentucky legislature, that I took occasion to animadvert upon these fraudulent practices, and observed, that when the names came to be alphabeted, the truth would be told, whatever might be the language of the record; for the alphabet would read *Black* Tom, *Black* Harry, and so forth. Kentucky realized more in her treasury than the parent state had done, considering that she had but a remnant of public lands, and she added somewhat to her population. But they were far less available than they would have been under a system of previous survey and regular sale.

These observations, in respect to the course of the respectable states referred to, in relation to their public lands, are not prompted by any unkind feelings towards them, but to show the superiority of the land system of the United States.

Under the system of the general government, the wisdom of which, in some respects, is admitted, even by the report of the land committee, the country subject to its operation, beyond the Alleghany mountains, has rapidly advanced in population, improvement, and prosperity. The example of the state of Ohio was emphatically relied on by the report of the committee of manufactures — its million of people, its canals, and other improvements, its flourishing towns, its highly-cultivated fields, all put there within less than forty years. To weaken the force of this example, the land committee deny that the population of the state is principally settled upon public lands derived from the general government. But, Mr. President, with great deference to that committee, I must say, that it labors under misapprehension. Three fourths, if not four fifths of the population of that state, are settled upon public lands purchased from the United States, and they are the most

these public lands in the west, and this system affords, is the resource which they present again want, in other parts of the union, from the voc being too closely filled, and too much crowded. tend to sustain the price of labor, by the opportu offer, of the acquisition of fertile land at a modera consequent temptation to emigrate from those par where labor may be badly rewarded.

The progress of settlement, and the improvemen and condition of individuals, under the operation o system, are as simple as they are manifest. Pic adventurous character, advancing before the tide penetrate into the uninhabited regions of the wes the axe to the forest, which falls before them, or th prairie, deeply sinking its share in the unbroken which it abounds. They build houses, plant or fields, cultivate the earth, and rear up families Meantime, the tide of emigration flows upon them, farms rise in value, a demand for them takes place, new comers, at a great advance, and proceed fur ample means to purchase from government, at rea sufficient land for all the members of their families. another tide succeeds, the first pushing on westward settlers, who, in their turn, sell out their farms, const ing in price, until they arrive at a fixed and station this way, thousands, and tens of thousands, are d their circumstances, and bettering their condition. witnessed this gratifying progress. On the same sometimes behold, standing together, the first rude and unhewn logs, and wooden chimneys, the hev chinked and shingled, with stone or brick chimneys, comfortable brick or stone dwelling, each denotin

and to posterity, enjoins that we should abstain from the adoption of any wild project that would cast away this vast national property, holden by the general government in sacred trust for the whole people of the United States, and forbids that we should rashly touch a system which has been so successfully tested by experience.

It has been only within a few years, that restless men have thrown before the public their visionary plans for squandering the public domain. With the existing laws, the great state of the west is satisfied and contented. She has felt their benefit, and grown great and powerful under their sway. She knows and testifies to the liberality of the general government, in the administration of the public lands, extended alike to her and to the other new states. There are no petitions from, no movements in Ohio, proposing vital and radical changes in the system. During the long period, in the house of representatives, and in the senate, that her upright and unambitious citizen, the first representative of that state, and afterwards successively senator and governor, presided over the committee of public lands, we heard of none of these chimerical schemes. All went on smoothly, and quietly, and safely. No man, in the sphere within which he acted, ever commanded or deserved the implicit confidence of congress, more than Jeremiah Morrow. There existed a perfect persuasion of his entire impartiality and justice between the old states and the new. A few artless but sensible words, pronounced in his plain Scotch Irish dialect, were always sufficient to insure the passage of any bill or resolution which he reported. For about twenty-five years, there was no essential change in the system; and that which was at last made, varying the price of the public lands from two dollars, at which it had all that time remained, to one dollar and a quarter, at which it has been fixed only about ten or twelve years, was founded mainly on the consideration of abolishing the previous credits.

Assuming the duplication of our population in terms of twenty-five years, the demand for waste land, at the end of every term, will at least be double what it was at the commencement. But the ratio of the increased demand will be much greater than the increase of the *whole* population of the United States, because the western states nearest to, or including the public lands, populate much more rapidly than other parts of the union; and it will be from them that the greatest current of emigration will flow. At this moment, Ohio, Kentucky, and Tennessee, are the most migrating states in the union.

To supply this constantly augmenting demand, the policy, which has hitherto characterized the general government, has been highly liberal both towards individuals and the new states. Large tracts, far surpassing the demand of purchasers, in every climate and situation, adapted to the wants of all parts of the union, are brought

to market at moderate prices, the government having sustained l the expense of the original purchase, and of surveying, marking, ıd dividing the land. For fifty dollars any poor man may ırchase forty acres of first-rate land; and, for less than the wages ' one year's labor he may buy eighty acres. To the new states, so, has the government been liberal and generous in the grants r schools and for internal improvements, as well as in reducing e debt, contracted for the purchase of lands, by the citizens of ose states, who were tempted, in a spirit of inordinate speculation, purchase too much, or at too high prices.

Such is a rapid outline of this invaluable national property, of e system which regulates its management and distribution, and ' the effects of that system. We might here pause, and wonder ıat there should be a disposition with any to waste or throw away ıis great resource, or to abolish a system which has been fraught ·ith so many manifest advantages. Nevertheless, there are such, ho, impatient with the slow and natural operation of wise laws, ave put forth various pretensions and projects concerning the ublic lands, within a few years past. One of these pretensions is, ı assumption of the sovereign right of the new states to all the nds within their respective limits, to the exclusion of the general overnment, and to the exclusion of all the people of the United tates, those in the new states only excepted. It is my purpose

lands. He returned to Illinois, and, springing into the grand prairie, determined to claim and occupy it, in all its boundless extent.

Then came the resolution of the senator from Virginia, (Mr. Tazewell,) in May, 1826, in the following words:

'Resolved, that it is expedient for the United States to cede and surrender to the several states, within whose limits the same may be situated, all the right, title, and interest of the United States, to any lands lying and being within the boundaries of such states, respectively, upon such terms and conditions as may be consistent with the due observance of the public faith, and with the general interest of the United States.'

The latter words rendered the resolution somewhat ambiguous; but still it contemplated a cession and surrender. Subsequently, the senator from Virginia proposed, after a certain time, a gratuitous surrender of all unsold lands, to be applied by the legislature, *in support of education* and the *internal improvement* of the state.

[Here Mr. Tazewell controverted the statement. Mr. Clay called to the secretary to hand him the journal of April, 1828, which he held up to the senate, and read from it the following:

'The bill to graduate the price of the public lands, to make donations thereof to actual settlers, and to cede the refuse to the states in which they lie, being under consideration —

'Mr. Tazewell moved to insert the following as a substitute:

'That the lands which shall have been subject to sale under the provisions of this act, and shall remain unsold for two years, after having been offered at twenty-five cents per acre, shall be, and the same is, ceded to the state in which the same may lie, to be applied by the legislature thereof in support of education, and the internal improvement of the state.']

Thus it appears not only that the honorable senator proposed the cession, but showed himself the friend of education and internal improvements, by means derived from the general government. For this liberal disposition on his part, I believe it was, that the state of Missouri honored a new county with his name. If he had carried his proposition, that state might well have granted a principality to him.

The memorial of the legislature of Illinois, probably produced by the message of the governor already noticed, had been presented, asserting a claim to the public lands. And it seems, (although the fact had escaped my recollection until I was reminded of it by one of her senators, (Mr. Hendricks,) the other day,) that the legislature of Indiana had instructed her senators to bring forward a similar claim. At the last session, however, of the legislature of that state, resolutions had passed, instructing her delegation to obtain from the general government *cessions* of the unappropriated public lands, on the most favorable terms. It is clear from this last expression of the will of that legislature, that, on reconsideration, it believed the right to the public lands to be in the general government, and not in the state of Indiana. For, if they did not belong

in behalf of the old states. Its power cannot be
to the new states, and circumscribed and restrict
Its capacity to bestow benefits or dispense justic
to the new states, but is coextensive with the whol
grant to all, or it can grant to none. And thi
equity is not only in conformity with the spirit o
the deeds from the ceding states, but is expressly
terms of those deeds.

Such is the probable origin of the pretension w
tracing; and now let us examine its nature and f
argument in behalf of the new states, is founded o
as the old states, upon coming out of the revolutio
claimed a right to all the lands within their respec
as the new states have been admitted into the un
footing and condition in all respects with the old, t
entitled to all the waste lands embraced within
But the argument forgets that all the revolutionar
waste lands; that some had but very little, and
forgets that the right of the states to the waste la
limits was controverted; and that it was insisted t
been conquered in a common war, waged with c
and attended with general sacrifices, the public l
held for the common benefit of all the states. I
consequence of this right, asserted in behalf of th
the states that contained any large bodies of w
Virginia, particularly, that had the most) ceded the
for the equal benefit of all the states. It forget
equality, which is the basis of the argument, w
subverted by the admission of the validity of the p
how would the matter then stand? The revolutio
have divested themselves of the large districts of vac
they contained, for the common benefit of all the st

an empire in extent for *the common benefit.* And now it is proposed not only to withdraw that empire from the object of its solemn dedication, to the use of all the states, but to deny her any participation in it, and appropriate it exclusively to the benefit of the new states carved out of it.

If the new states had any right to the public lands, in order to produce the very equality contended for, they ought forthwith to cede that right to the union, for the common benefit of all the states. Having no such right, they ought to acquiesce cheerfully in an equality which does, in fact, now exist between them and the old states.

The committee of manufactures has clearly shown, that if the right were recognised in the new states now existing, to the public lands within their limits, each of the new states, as they might hereafter be successively admitted into the union, would have the same right; and, consequently, that the pretension under examination embraces, in effect, the whole public domain, that is, a billion and eighty millions of acres of land.

The right of the union to the public lands is incontestable. It ought not to be considered debatable. It never was questioned but by a few, whose monstrous heresy, it was probably supposed, would escape animadversion from the enormity of the absurdity, and the utter impracticability of the success of the claim. The right of the whole is sealed by the blood of the revolution, founded upon solemn deeds of cession from sovereign states, deliberately executed in the face of the world, or resting upon national treaties concluded with foreign powers, on ample equivalents contributed from the common treasury of the people of the United States.

This right of the whole was stamped upon the face of the new states at the very instant of their parturition. They admitted and recognised it with their first breath. They hold their stations, as members of the confederacy, in virtue of that admission. The senators who sit here and the members in the house of representatives from the new states, deliberate in congress with other senators and representatives, under that admission. And since the new states came into being, they have recognised this right of the general government by innumerable acts —

By their concurrence in the passage of hundreds of laws respecting the public domain, founded upon the incontestable right of the whole of the states;

By repeated applications to extinguish Indian titles, and to survey the lands which they covered;

And by solicitation and acceptance of extensive grants of the public lands from the general government.

The existence of the new state is a falsehood, or the right of all the states to the public domain is an undeniable truth. They have no more right to the public lands, within their particular jurisdic-

ion, than other states have to the mint, the forts and arsenals, or public ships, within theirs, or than the people of the District of Columbia have to this magnificent capitol, in whose splendid halls we now deliberate.

The equality contended for between all the states now exists. The public lands are now held, and ought to be held and administered for the common benefit of all. I hope our fellow-citizens of Illinois, Indiana, and Missouri, will reconsider the matter; that they will cease to take counsel from demagogues who would deceive them, and instil erroneous principles into their ears; and that they will feel and acknowledge that their brethren of Kentucky and of Ohio, and of all the states in the union, have an equal right with the citizens of those three states, in the public lands. If the possibility of an event so direful as a severance of this union were for a moment contemplated, what would be the probable consequence of such an unspeakable calamity; if three confederacies were formed out of its fragments, do you imagine that the western confederacy would consent to have the states including the public lands hold them exclusively for themselves? Can you imagine that the states of Ohio, Kentucky, and Tennessee, would quietly renounce their right in all the public lands west of them? No, sir! No, sir! They would wade to their knees in blood, before they would make such an unjust and ignominious surrender.

But this extension, unjust to the old states, unequal as to all

imports, which was so successfully exposed and refuted by the report of the committee on manufactures. Will not the new states participate in any reduction of the revenue, in common with the old states, without touching the public lands? As far as they are consumers of objects of foreign imports. will they not equally share the benefit with the old states? What right, over and above that equal participation, have the new states, to a reduction of the price of the public lands? As *states*, what right, much less what 'clear right' have they, to any such reduction? In their sovereign or corporate capacities, what right? Have not all the stipulations between them, *as states*, and the general government, been fully complied with? Have the people within the new states, considered distinct from the states themselves, any right to such a reduction? Whence is it derived? They went there in pursuit of their own happiness. They bought lands from the public because it was their interest to make the purchase, and they enjoy them. Did they, because they purchased some land, which they possess peacefully, acquire any, and what right, in the land which they did not buy? But it may be argued, that by settling and improving these lands, the adjacent public lands are enhanced. True; and so are their own. The enhancement of the public lands was not a consequence which they went there to produce, but was a collateral effect, as to which they were passive. The public does not seek to avail itself of this augmentation in value, by augmenting the price. It leaves that where it was; and the demand for reduction is made in behalf of those who say their labor has increased the value of the public lands, and the claim to reduction is founded upon the fact of enhanced value? The public, like all other landholders, had a right to anticipate that the sale of a part would communicate, incidentally, greater value upon the residue. And, like all other land proprietors, it has the right to ask more for that residue; but it does not, and, for one, I should be as unwilling to disturb the existing price by augmentation as by reduction. But the public lands is the article of revenue which the people of the new states chiefly *consume*. In another part of this report, liberal grants of the public lands are recommended, and the idea of holding the public lands as a source of revenue is scouted; because, it is said, more revenue could be collected from the settlers as consumers, than from the lands. Here it seems that the public lands are the articles of revenue chiefly consumed by the new states.

With respect to lands yet to be sold, they are open to the purchase alike of emigrants from the old states, and settlers in the new. As the latter have most generally supplied themselves with lands, the probability is, that the emigrants are more interested in the question of reduction than the settlers. At all events, there can be no peculiar right to such reduction existing in the new states. It is a question common to all, and to be decided in reference to the interest of the whole union.

manufactures, and to which I shall hereafter m
the attention of the senate. But it did not seem
mittee, that this new and liberal destination c
restricted 'for the relief of the states in which th
but should extend to all the states indiscriminate
of equitable distribution.

**Third. 'Because nearly one hundred millions of acres of**
**are the refuse of sales and donations, through a long series of**
**little actual value, and only fit to be given to settlers, or aba**
**which they lie.'**

According to an official statement, the total qua
which has been surveyed up to the thirty-first of I
a little upwards of one hundred and sixty-two
Of this, a large proportion, perhaps even more
dred millions of acres stated in the land report,
time in market. The entire quantity which has
the United States, up to the same day, after ded
quished and lands reverted to the United States
official statement, also, is twenty-five million tw
two thousand five hundred and ninety acres. Th
of thirty-six years, during which the present lan
in operation, a little more than twenty-five mill
been sold, not averaging a million per annum, an
hundred millions of the surveyed lands remain
argument of the report of the land committee ass
one hundred millions are the refuse of sales, and
very little actual value, and only fit to be given to
doned to the states in which they lie.

Mr. President, let us define as we go — let us
do the land committee mean by 'refuse land?'
worthless, inferior, rejected land, which nobody

and it is annually and daily preparing additional surveys of fresh lands. It has thrown and is preparing to throw open to purchasers already one hundred and sixty-two millions of acres. And now, because the capacity to purchase, in its nature limited by the growth of our population, is totally incompetent to absorb this immense quantity, the government is called upon, by some of the very persons who urged the exhibition of this vast amount to sale, to consider all that remains unsold as refuse! Twenty-five millions in thirty-six years only are sold, and all the rest is to be looked upon as refuse. Is this right? If there had been five hundred millions in market, there probably would not have been more or much more sold. But I deny the correctness of the conclusion that it is worthless because not sold. It is not sold, because there were not people to buy it. You must have gone to other countries, to other worlds, to the moon, and drawn from thence people to buy the prodigious quantity which you offered to sell.

Refuse land! A purchaser goes to a district of country and buys out of a township a section which strikes his fancy. He exhausts his money. Others might have preferred other sections. Other sections may even be better than his. He can with no more propriety be said to have 'refused' or rejected all the other sections, than a man who, attracted by the beauty, charms, and accomplishments of a particular lady, marries her, can be said to have rejected or refused all the rest of the sex.

Is it credible, that out of one hundred and fifty or one hundred and sixty millions of acres of land in a valley celebrated for its fertility, there are only about twenty-five millions of acres of good land, and that all the rest is refuse? Take the state of Illinois as an example. Of all the states in the union, that state probably contains the greatest proportion of rich, fertile lands; more than Ohio, more than Indiana, abounding as they both do in fine lands. Of the thirty-three millions and a half of public lands in Illinois, a little more only than two millions have been sold. Is the residue of thirty-one millions all refuse land? Who that is acquainted in the west can assert or believe it? No, sir; there is no such thing. The unsold lands are unsold because of the reasons already assigned. Doubtless there is much inferior land remaining, but a vast quantity of the best of lands also. For its timber, soil, water-power, grazing, minerals, almost all land possesses a certain value. If the lands unsold are refuse and worthless in the hands of the general government, why are they sought after with so much avidity? If in our hands they are good for nothing, what more would they be worth in the hands of the new states? 'Only fit to be given to settlers!' What settlers would thank you? what settlers would not scorn a gift of *refuse*, worthless land? If you mean to be generous, give them what is valuable; be manly in your generosity.

paper, entitled the 'Ohio Republican,' publishe
twenty-sixth of May, 1832. The article is hea
and it states: 'it has suited the interest of som
lands of the United States which have remai
many years, as mere 'refuse' which cannot be
a rapid reduction of price, and the cession of the
period, to the states in which they are situated.
against this plan, that it is a speculating project, w
a large quantity of land from the United States,
increase of price to actual settlers, in a few
their being able for ever, as it may be said is t
present system of land sales, to obtain a farm at
To show how far the lands unsold are from be
copy from the Gazette the following statement
the Zanesville district, one of the oldest districts
sales at the Zanesville land-office, since the comi
present year, have been as follows; January, se
hundred and twenty dollars and eighty cents; Feb
and five hundred and forty-two dollars and sixty-se
eleven thousand seven hundred and forty-four do
five cents; April, nine thousand two hundred anc
nineteen cents; and since the first of the present
thousand dollars worth have been sold, more th
was in forty acre lots.' And there cannot be a c
passed at this session, authorizing sales of forty ac
desire to make additions to farms, and to settle
of families, increase the sales very much, at least d

A friend of mine in this city bought in Illinoi
two thousand acres of this refuse land, at the m
which he has lately refused six dollars per acre.
body, now in my eye, purchased a small tract of
land, of one hundred and sixty acres, at seco

have sprung up in the wilderness, and so many thousands of families have been accommodated. It might be otherwise, if the public land was dealt out by government with a sparing, grudging, griping hand. But they are liberally offered, in exhaustless quantities, and at moderate prices, enriching individuals, and tending to the rapid improvement of the country. The two important facts brought forward and emphatically dwelt on by the committee of manufactures, stand in their full force, unaffected by any thing stated in the report of the land committee. These facts must carry conviction to every unbiased mind, that will deliberately consider them. The first is, the rapid increase of the new states, far outstripping the old, averaging annually an increase of eight and a half per centum, and doubling of course in twelve years. One of these states, Illinois, full of refuse land, increasing at the rate of eighteen and a half per centum! Would this astonishing growth take place if the lands were too high, or all the good land sold? The other fact is, the vast increase in the annual sales—in 1830, rising of three millions. Since the report of the committee of manufactures, the returns have come in of the sales of last year, which had been estimated at three millions. They were, in fact, three million five hundred and sixty-six thousand one hundred and twenty-seven dollars and ninety-four cents! Their progressive increase baffles all calculation. Would this happen, if the price were too high?

It is argued, that the value of different townships and sections is various; and that it is, therefore, wrong to fix the same price for all. The variety in the quality, situation, and advantages, of different tracts, is no doubt great. After the adoption of any system of classification, there would still remain very great diversity in the tracts belonging to the same class. This is the law of nature. The presumption of inferiority, and of refuse land, founded upon the length of time that the land has been in market, is denied, for reasons already stated. The offer, at public auction, of all lands to the highest bidder, previous to their being sold at private sale, provides in some degree for the variety in the value, since each purchaser pushes the land up to the price which, according to his opinion, it ought to command. But if the price demanded by government is not too high for the good land, (and no one can believe it,) why not wait until that is sold, before any reduction in the price of the bad? And that will not be sold for many years to come. It would be quite as wrong to bring the price of good land down to the standard of the bad, as it is alleged to be, to carry the latter up to that of the former. Until the good land is sold there will be no purchasers of the bad; for, as has been stated in the report of the committee of manufactures, a discreet farmer would rather give a dollar and a quarter per acre for first-rate land, than accept refuse and worthless land as a present.

rapidity, their condition is now much more eli
some of the old states. Ohio, I am sorry to be c
is, in internal improvement and some other resp
advance of her elder sister and neighbor, Kentu
her growth and prosperity, her independence, her
elder states, the development of her resources, t
vation, and settlement of her soil, or the proper
jurisdiction and sovereignty, been affected or imp
eral title within her limits? The federal title! It
of blessings and of bounties, but not one of real g
the exemption from taxation of the public lands, a
for five years of those sold to individuals, if the publi
the new states, would they tax it? And as to the
it is paid for by the general government, as may
ence to the compacts; and it is, moreover, benef
states themselves, by holding out a motive to emig
and settle within their limits.

'Sixth. Because the ramified machinery of the land-office dep
ership of so much soil, extends the patronage and authority of th
into the *heart* and *corners* of the new states, and subjects their p
a *foreign* and *powerful* influence.'

A foreign and powerful influence! The federa
foreign government! And the exercise of a legitir
the national property, for the benefit of the whc
United States, a deprecated penetration into the h
of the new states! As to the calamity of the lan
are held within them, I believe that is not regarde
of these states with quite as much horror as it is b
mittee. They justly consider that they ought to h
themselves, and that no persons ought to be sent fr
*eign* states of this union to fill them. And, if th
offices were increased

still be invaded by post-offices and post-masters, and post-roads, and the Cumberland road, and various other modifications of its power.

'Because the sum of four hundred and twenty-five millions of dollars, proposed to be drawn from the new states and territories, by the sale of their soil, at one dollar and twenty-five cents per acre, is unconscionable and impracticable — such as never can be paid — and the bare attempt to raise which, must drain, exhaust, and impoverish these states, and give birth to the feelings, which a sense of injustice and oppression never fail to excite, and the excitement of which should be so carefully avoided in a confederacy of free states.'

In another part of this report the committee say, speaking of the immense revenue alleged to be derivable from the public lands, 'this ideal revenue is estimated at four hundred and twenty-five millions of dollars, for the lands now within the limits of the states and territories, and at one billion three hundred and sixty-three million five hundred and eighty-nine thousand six hundred and ninety-one dollars for the whole federal domain. Such *chimerical* calculations preclude the propriety of argumentative answers.' Well, if these calculations are all chimerical, there is no danger, from the preservation of the existing land system, of draining, exhausting and impoverishing the new states, and of exciting them to rebellion.

The manufacturing committee did not state what the public lands would, in fact, produce. They could not state it. It is hardly a subject of approximate estimate. The committee stated what would be the proceeds, estimated by the minimum price of the public lands; what, at one half of that price; and added, that, although there might be much land that would never sell at one dollar and a quarter per acre, 'as fresh lands are brought into market and exposed to sale at auction, many of them sell at prices exceeding one dollar and a quarter per acre.' They concluded by remarking, that the least favorable view of regarding them, was to consider them a capital yielding an annuity of three millions of dollars at this time; that, in a few years, that annuity would probably be doubled, and that the capital might then be assumed as equal to one hundred millions of dollars.

Whatever may be the sum drawn from the sales of the public lands, it will be contributed, not by citizens of the states alone in which they are situated, but by emigrants from all the states. And it will be raised, not in a single year, but in a long series of years. It would have been impossible for the state of Ohio to have paid, in one year, the millions that have been raised in that state, by the sale of public lands; but in a period of upwards of thirty years, the payment has been made, not only without impoverishing, but with the constantly increasing prosperity of the state.

Such, Mr. President, are the reasons of the land committee, for the reduction of the price of the public lands. Some of them had

been anticipated and refuted in the report of the manufacturing committee; and I hope that I have now shown the insolidity of the residue.

I will not dwell upon the consideration urged in that report, against any large reduction, founded upon its inevitable tendency to lessen the value of the landed property throughout the union, and that in the western states especially. That such would be the necessary consequence, no man can doubt, who will seriously reflect upon such a measure as that of throwing into market, immediately, upwards of one hundred and thirty millions of acres, and at no distant period upwards of two hundred millions more, at greatly reduced rates.

If the honorable chairman of the land committee, (Mr. King,) had relied upon his own sound practical sense, he would have presented a report far less objectionable than that which he has made. He has availed himself of another's aid, and the hand of the senator from Missouri, (Mr. Benton,) is as visible in the composition, as if his name had been subscribed to the instrument. We hear again, in this paper, of that which we have so often heard repeated before in debate, by the senator from Missouri — the sentiments of Edmund Burke. And what was the state of things in England, to which those sentiments were applied?

England has too little land, and too many people. America has

manufactures. That report has before been the subject of repeated commentary in the senate, by the senator from Missouri, and of much misrepresentation and vituperation in the public press. Mr. Rush showed me the rough draft of that report, and I advised him to expunge the paragraphs in question, because I foresaw that they would be misrepresented, and that he would be exposed to unjust accusation. But knowing the purity of his intentions, believing in the soundness of the views which he presented, and confiding in the candor of a just public, he resolved to retain the paragraphs. I cannot suppose the senator from Missouri ignorant of what passed between Mr. Rush and me, and of his having, against my suggestions, retained the paragraphs in question, because these facts were all stated by Mr. Rush himself, in a letter addressed to a late member of the house of representatives, representing the district in which I reside, which letter, more than a year ago, was published in the western papers.

I shall say nothing in defence of myself, nothing to disprove the charge of my cherishing unfriendly feelings and sentiments towards any part of the west. If the public acts in which I have participated, if the uniform tenor of my whole life, will not refute such an imputation, nothing that I could here say would refute it.

But I *will* say something in defence of the opinions of my late patriotic and enlightened colleague, not here to speak for himself; and I will vindicate his official opinions from the erroneous glosses and interpretations which have been put upon them.

Mr. Rush, in an official report which will long remain a monument of his ability, was surveying, with a statesman's eye, the condition of America. He was arguing in favor of the protective policy — the American system. He spoke of the limited vocations of our society, and the expediency of multiplying the means of increasing subsistence, comfort, and wealth. He noticed the great and the constant tendency of our fellow-citizens to the cultivation of the soil, the want of a market for their surplus produce, the inexpediency of all blindly rushing to the same universal employment, and the policy of dividing ourselves into various pursuits. He says:

'The manner in which the remote lands of the United States are selling and settling, whilst it possibly may tend to increase more quickly the aggregate population of the country, and the mere means of subsistence, does not increase capital in the same proportion. * * * * Anything that may serve to hold back this tendency to diffusion from running *too far and too long into an extreme*, can scarcely prove otherwise than salutary * * * * If the population of these, (a majority of the states, including some western states,) not yet redundant in fact, though appearing to be so, under this legislative incitement to emigrate, remain fixed in more instances, as it probably would be by extending the *motives* to manufacturing labor, it is believed that the nation would gain in two ways: first, by the more rapid accumulation of capital, and next, by the gradual reduction of the *excess* of its agricultural population over that engaged in other vocations. It is not imagined that it ever would be practicable, even if it were desirable, *to turn* this *stream* of emigration aside; but resources, opened through the influence of the laws, in new fields of industry, to the inhabitants of the states already sufficiently peopled to enter upon them, might operate to lessen, in some degree, and usefully lessen, its absorbing force.'

Now, Mr. President, what is there in this view adverse to the rest, or unfavorable to its interests? Mr. Rush is arguing on the endency of the people to engage in agriculture, and the incitement o emigration produced by our laws. Does he propose to change hose laws in that particular? Does he propose any new measure? So far from suggesting any alteration of the conditions on which he public lands are sold, he expressly says, that it is not desirable, if it were practicable, to turn this stream of emigration aside. Leaving all the laws in full force, and all the motives to emigration rising from fertile and cheap lands, untouched, he recommends he encouragement of a new branch of business, in which all the nion, the west as well as the rest, is interested; thus presenting n option to population to engage in manufactures or in agricul-ure, at its own discretion. And does such an option afford just round of complaint to any one? Is it not an advantage to all? Do the land committee desire (I am sure they do not) to create tarvation in one part of the union, that emigrants may be forced nto another? If they do not, they ought not to condemn a multi-lication of human employments, by which, as its certain conse-uence, there will be an increase in the means of subsistence and omfort. The objection to Mr. Rush, then, is, that he looked at is *whole* country, and at all parts of it; and that, whilst he desired he prosperity and growth of the west to advance undisturbed, e wished to build up, on deep foundations, the welfare of all the

reduction of the price of the public lands. What is that reasoning? Here it is; it will speak for itself; and without a single comment will demonstrate how different it is from that of the late secretary of the treasury, unexceptionable as that has been shown to be.*

* 'The greatest emigration, (says the manufacturing committee,) that is believed now to take place from any of the states, is from Ohio, Kentucky, and Tennessee. The effects of a material reduction in the price of the public lands, would be, first, to lessen the value of real estate in those three states; secondly, to diminish their interest in the public domain, as a common fund for the benefit of all the states; and, thirdly, to offer what would operate as a bounty to further emigration from those states, occasioning more and more lands, situated within them, to be thrown into the market, thereby not only lessening the value of their lands, but draining them, both of their population and labor.'

There are good men in different parts, but especially in the Atlantic portion, of the union, who have been induced to regard lightly this vast national property; who have been persuaded that the people of the west are dissatisfied with the administration of it; and who believe that it will, in the end, be lost to the nation, and that it is not worth present care and preservation. But these are radical mistakes. The great body of the west are satisfied, perfectly satisfied, with the general administration of the public lands. They would indeed like, and are entitled to, a more liberal expenditure among them of the proceeds of the sales. For this provision is made by the bill to which I will hereafter call the attention of the senate. But the great body of the west have not called for, and understand too well their real interest to desire, any essential change in the system of survey, sale, or price of the lands. There may be a few, stimulated by demagogues, who desire change; and what system is there, what government, what order of human society, in which a few do not desire change?

It is one of the admirable properties of the existing system, that it contains within itself and carries along principles of conservation and safety. In the progress of its operation, new states become identified with the old, in feeling, in thinking, and in interest. Now, Ohio is as sound as any old state in the union, in all her views relating to the public lands. She feels that her share in the exterior domain is much more important than would be an exclusive right to the few millions of acres left unsold, within her limits, accompanied by a virtual surrender of her interest in all the other public lands of the United States. And I have no doubt, that now, the people of the other new states, left to their own unbiased sense of equity and justice, would form the same judgment. They cannot believe that what they have not bought, what remains the property of themselves and all their brethren of the United States, in common, belongs to them exclusively. But if I am mistaken, if they have been deceived by erroneous impressions on their mind, made by artful men, as the sales proceed, and the land is exhausted,

and their population increased, like the state of Ohio, they will feel that their true interest points to their remaining copartners in the whole national domain, instead of bringing forward an unfounded pretension to the inconsiderable remnant which will be then left in their own limits.

And now, Mr. President, I have to say something in respect to the particular plan brought forward by the committee of manufactures, for a temporary appropriation of the proceeds of the sales of the public lands.

The committee say that this fund is not wanted by the general government; that the peace of the country is not likely, from present appearances, to be speedily disturbed; and that the general government is absolutely embarrassed in providing against an enormous surplus in the treasury. While this is the condition of the federal government, the states are in want of, and can most beneficially use, that very surplus with which we do not know what to do. The powers of the general government are limited; those of the states are ample. If those limited powers authorized an application of the fund to some objects, perhaps there are some others, of more importance, to which the powers of the states would be more competent, or to which they may apply a more provident care.

But the government of the whole and of the parts, at last is but one government of the same people. In form they are two, in

ble power. The powers of congress over the public lands are broader and more comprehensive, than those which they possess over taxation, and the money produced by it.

This brings me to consider, first, the power of congress to make the distribution. By the second part of the third section of the fourth article of the constitution, congress 'have power to *dispose of* and make all needful rules and regulations respecting the territory or other property of the United States.' The power of disposition is plenary, unrestrained, unqualified. It is not limited to a specified object or to a defined purpose, but left applicable to any object or purpose which the wisdom of congress shall deem fit, acting under its high responsibility.

The government purchased Louisiana and Florida. May it not apply the proceeds of lands within those countries, to any object which the good of the union may seem to indicate? If there be a restraint in the constitution, where is it, what is it?

The uniform practice of the government has conformed to the idea of its possessing full powers over the public lands. They have been freely granted, from time to time, to communities and individuals, for a great variety of purposes. To states for education, internal improvements, public buildings; to corporations for education; to the deaf and dumb; to the cultivators of the olive and the vine; to preëmptioners; to general Lafayette, and so forth.

The deeds from the ceding states, far from opposing, fully warrant the distribution. That of Virginia ceded the land as 'a common fund for the use and benefit of *such* of the United States as have become, or shall become, members of the confederation or federal alliance of the said states, Virginia inclusive.' The cession was for the benefit of all the states. It may be argued, that the fund must be retained in the common treasury, and thence paid out. But by the bill reported, it will come into the common treasury, and then the question, how it shall be subsequently applied for the use and benefit of *such* of the United States as compose the confederacy, is one of modus only. Whether the money is disbursed by the general government directly, or is paid out upon some equal and just principle, to the states, to be disbursed by them, cannot affect the right of distribution. If the general government retained the power of ultimate disbursement, it could execute it only by suitable agents; and what agency is more suitable than that of the states themselves? If the states expend the money, as the bill contemplates, the expenditure will, in effect, be a disbursement for the benefit of the whole, although the several states are organs of the expenditure; for the whole and all the parts are identical. And, whatever redounds to the benefit of all the parts, necessarily contributes, in the same measure, to the benefit of the whole. The great question should be, is the distribution upon equal and just principles? And this brings me to consider,

Secondly, the terms of the distribution proposed by the bill of the committee of manufactures. The bill proposes a division of the net proceeds of the sales of the public lands, among the several states composing the union, according to their federal representative population, as ascertained by the last census; and it provides for new states, that may hereafter be admitted into the union. The basis of the distribution, therefore, is derived from the constitution itself, which has adopted the same rule, in respect to representation and direct taxes. None could be more just and equitable.

But it has been contended in the land report, that the revolutionary states which did not cede their public lands, ought not to be allowed to come into the distribution. This objection does not apply to the purchases of Louisiana and Florida, because the consideration for them was paid out of the common treasury, and was consequently contributed by all the states. Nor has the objection any just foundation, when applied to the public lands derived from Virginia, and the other ceding states; because, by the terms of the deeds, the cessions were made for the use and benefit of all the states. The ceding states having made no exception of any state, what right has the general government to interpolate in the deeds, and now create an exception? The general government is a mere trustee, holding the domain in virtue

which they would raise, would be only eight and a half per centum per annum; that is to say, a state now collecting a revenue of one hundred thousand dollars per annum, would collect only one hundred and eight thousand five hundred, if it were to tax the lands recently sold. But by the bill under consideration, each of the seven new states will annually receive, as its distributive share, more than the whole amount of its annual revenue.

It may be thought, that to set apart ten per centum to the new states, in the first instance, is too great a proportion, and is unjust towards the old states. But it will be recollected that, as they populate much faster than the old states, and as the last census is to govern in the apportionment, they ought to receive more than the old states. If they receive too much at the commencement of the term, it may be neutralized by the end of it.

Afrer the deduction shall have been made of the fifteen per centum allotted to the new states, the residue is to be divided among the twenty-four states, old and new, composing the union. What each of the states would receive, is shown by a table annexed to the report. Taking the proceeds of the last year as the standard, there must be added one sixth to what is set down in that table as the proportion of the several states.

If the power and the principle of the proposed distribution be satisfactory to the senate, I think the objects cannot fail to be equally so. They are education, internal improvements, and colonization, all great and beneficent objects, all national in their nature. No mind can be cultivated and improved; no work of internal improvement can be executed in any part of the union, nor any person of color transported from any of its ports, in which the whole union is not interested. The prosperity of the whole is an aggregate of the prosperity of the parts.

The states, each judging for itself, will select among the objects enumerated in the bill, that which comports best with its own policy. There is no compulsion in the choice. Some will prefer, perhaps, to apply the fund to the extinction of debt, now burdensome, created for internal improvement; some to new objects of internal improvement; others to education; and others again to colonization. It may be supposed possible that the states will divert the fund from the specified purposes. But against such a misapplication we have, in the first place, the security which arises out of their presumed good faith; and, in the second, the power to withhold subsequent, if there has been any abuse in previous appropriations.

It has been argued that the general government has no power in respect to colonization. Waiving that, as not being a question at this time, the real inquiry is, have the states themselves any such power? For it is to the states that the subject is referred. The evil of a free black population, is not restricted to particular states,

but extends to and is felt by all. It is not, therefore, the slave question, but totally distinct from and unconnected with it. I have heretofore often expressed my perfect conviction, that the general government has no constitutional power which it can exercise in regard to African slavery. That conviction remains unchanged. The states in which slavery is tolerated, have exclusively in their own hands the entire regulation of the subject. But the slave states differ in opinion as to the expediency of African colonization. Several of them have signified their approbation of it. The legislature of Kentucky, I believe unanimously, recommended the encouragement of colonization to congress.

Should a war break out during the term of five years, that the operation of the bill is limited to, the fund is to be withdrawn and applied to the vigorous prosecution of the war. If there be no war, congress, at the end of the term, will be able to ascertain whether the money has been beneficially expended, and to judge of the propriety of continuing the distribution.

Three reports have been made, on this great subject of the public lands, during the present session of congress, besides that of the secretary of the treasury at its commencement — two in the senate and one in the house. All three of them agree, first, in the preservation of the control of the general government over the public lands; and, secondly, they concur in rejecting the plan of a cession

proceeds of that great resource, among the several states, for the important objects which have been enumerated, a new and powerful bond of affection and of interest will be added. The states will feel and recognise the operation of the general government, not merely in power and burdens, but in benefactions and blessings. And the general government in its turn will feel, from the expenditure of the money which it dispenses to the states, the benefits of moral and intellectual improvement of the people, of greater facility in social and commercial intercourse, and of the purification of the population of our country, themselves the best parental sources of national character, national union, and national greatness. Whatever may be the fate of the particular proposition now under consideration, I sincerely hope that the attention of the nation may be attracted to this most interesting subject; that it may justly appreciate the value of this immense national property; and that, preserving the regulation of it by the will of the whole, for the advantage of the whole, it may be transmitted, as a sacred and inestimable succession, to posterity, for its benefit and blessing for ages to come.

# ON THE NORTHEASTERN BOUNDARY OF THE UNITED STATES.

## IN THE SENATE OF THE UNITED STATES, JULY 10, 1832.

[THE disputed question of the northeastern boundary of the United States, between the state of Maine and the British provinces, had been referred, in pursuance of an article of the treaty of Ghent, to the king of the Netherlands, for his opinion as to the true boundary line. That monarch having made his award, recommending the River St. John as the proper boundary line, (with some variations;) president Jackson communicated the decision to the senate, asking their advice thereon, as part of the treaty-making power. The subject being under discussion, (in secret session,) Mr. Clay made the following remarks, in which he shows that the advice asked of the senate was premature on the part of the president, with whom the responsibility should rest, until a treaty respecting the boundary should be concluded. This view

difficulty of consulting so large a body as to the instructions to be given to a foreign minister; the variety of propositions which may be interchanged in the progress of a negotiation, and the inconvenience of a perpetual recurrence to the senate for its opinion upon each of them, besides other considerations, rendered it altogether inexpedient to take the advice and consent of the senate previously to the conclusion of treaties. When concluded, president Washington thought the purport of the constitution would be satisfied by submitting them to the senate; as they could not be said to be *made*, in the language of the constitution, until the senate gave its constitutional concurrence to their becoming obligatory national compacts.

Accordingly, from an early period, in the first term of his administration, down to the present time, the settled and uniform practice of the executive government has been, to open negotiations with foreign powers, and to conclude such treaties as the president conceives the interests of this country demand. When so concluded, they are submitted to the senate for its constitutional advice and consent. And the extent of any agency which the senate exercises, in the formation of a treaty, is limited to proposing, as was done in the treaty of Mr. Jay, in 1794, amendments to the treaty. These become the subject of future negotiation.

To this established practice of the government, the present administration has hitherto, itself, conformed. And I presume it is not intended to change it, and to revive the impracticable course which general Washington was compelled to abandon, from experience.

What, then, are the circumstances of the case which the president has brought here for the consideration of the senate? In virtue of several treaties between the United States and Great Britain, on all of which treaties the senate had regularly acted and given its advice and consent, the disputed northeastern boundary was submitted to the decision of the king of the Netherlands, as the arbitrator between the two contracting parties, to decide the controversy. The king has pronounced his judgment, and communicated his award to each of the parties. Various questions have been started as to the validity of this instrument. Such as, whether it was intended as a decision binding the parties; whether it does not transcend the authority vested in the king, by the terms of the submission; whether it can be regarded as any thing more than the advice or recommendation of the king as to a suitable boundary, which either party is at liberty to adopt or not, at his discretion.

Whatever may be the real character of this royal act, no treaty, in consequence of it, has been concluded between the United States and Great Britain, as far as the senate is advised. It stands upon its own isolated ground. The president has asked the senate to advise him whether he shall sanction the award, and the report

f the committee of foreign relations, now before us, recommends iat the government of Great Britain be notified of the acquiesence in it by the government of the United States.

Now, Mr. President, it seems to me, that, in the present state of ie transaction, there is nothing brought by the president to our onsideration, on which the senate, as a part of the treaty-making r executive power, can constitutionally act. There is no treaty resented to us for our advice and consent, not even a negotiaion proposed, nor, in short, any basis whatever for the action of he senate. If the award of the king of the Netherlands be inding, it derives its validity from the consent of the parties eferring the question to him, and from his having decided the ase, in conformity with the terms of the submission. If he has iot decided it, or if in deciding it he has transcended the terms of he submission, it is not binding and obligatory. The president eing the only constitutional organ of the people of the United States, in all communications with foreign powers, and moreover harged with the execution of the laws and treaties of the United States, is bound to notify the British government what are the xecutive views in relation to the award. If he tells that governnent that this does not hold itself bound by the award, a negotiaion would probably take place between the parties. If, on the ontrary, the president notifies the British government that the Jnited States are bound by the award, he would have to come to

claim. She sought there to obtain by negotiation, and exchange of territory with the United States, a passage within her own jurisdiction from Nova Scotia and New Brunswick to Quebec. The British commissioners were told by the American, on that occasion, that they had no power to cede away or exchange any part of the territory of Massachusetts, which then included Maine. As there were many parts of the long line of boundary between the United States and Great Britain unsettled and unmarked, it became necessary to have it correctly ascertained and defined. For this purpose several boards of commissioners were provided for by the treaty of Ghent, in the same manner as a similar board had been created by a previous treaty. Most of these boards have amicably and satisfactorily settled the questions respectively submitted to them. That to which was referred the boundary now in dispute could not agree. Before this board, Great Britain brought forward and claimed as her right, that which she had sought to obtain by negotiation only, at the conferences of Ghent. And the perseverance with which she has prosecuted her pretensions, and the apparent success with which they have been so far finally crowned, demonstrate that there never need be despair in any cause, however bad.

During my service in an executive department, it became my duty to examine into this claim asserted by Great Britain; and the result was a firm persuasion and a strong conviction that it was unfounded, and that the right to the disputed territory was in the state of Maine. It is true that, in the treaty of peace of 1783, owing to the imperfect knowledge possessed of the country through which the boundary runs, there is some defective description, but the intention of the parties I think is clear, and according to that intention the right is with Maine, and not in Great Britain. It is altogether unnecessary, upon this occasion, to proceed to state all the grounds and considerations which brought my mind to that conclusion. By doing so, I should be trespassing upon the senate too much.

The commissioners not having been able to settle the question, the *casus fœderis*, provided for in former treaties, arose, and it became necessary to submit the question to an arbiter. The king of the Netherlands was selected for that purpose, and we all know the subsequent events. The statements, arguments, and papers of the parties, were all prepared within the two countries respectively, and transmitted to Holland, where they were submitted to the king. In consenting to refer the question, the late administration was impelled by the duty of respecting the national faith, as pledged in solemn treaties. And although the king of the Netherlands, was not the first choice of either party, high confidence was reposed in his independence, and in his ability, and integrity, by the late president of the United States.

With respect to the conduct of the arbitration, on the part of our government, there are some circumstances I think deeply to be regretted. The plan adopted by the late administration was to have retained Mr. Hughes at the Hague, elevated him to the rank of minister plenipotentiary, and send out Mr. Preble as a public agent to be associated with him. I scarcely know any man so well qualified for such a service as Mr. Hughes. He had the benefit of much diplomatic experience, and he had been very successful in various negotiations which he had conducted. Commencing his career as secretary of the commission at Ghent, he subsequently had creditably represented his government at Stockholm, and at St. Petersburgh, and at Copenhagen, on temporary missions; and he had been some time at the court of the Netherlands. Wherever he had been, he uniformly made good impressions, and conciliated the esteem and friendship of all whose acquaintance he formed. He was well versed in the language of the court of the Hague, and well acquainted with all the persons having access to, or surrounding the king. Of pleasing and winning manners, a general favorite, he was exactly such a person as was well fitted for the service. The rank of minister plenipotentiary was necessary to entitle him to approach the person of the king, according to established usage. It was a point of more importance that this government should have had such a represent-

I hazard nothing in saying, that, notwithstanding the confidence which Mr. Adams reposed in his personal character, he would not have been selected, with the concurrence of the late administration, as the sovereign arbiter. It was to an independent sovereign, one the extent of whose power and dominions placed him at the head of the second-rate states of the continent of Europe, that the controversy was submitted. It was not to the king of Holland, but to the king of Holland and Belgium, that the question was referred. It was to a monarch supposed to be unbiased, powerful, and independent, that the question was referred, and not to a sovereign, who, whilst he was arbitrating between Great Britain and the United States as to the territory of Maine, by the uncontrollable force of events found one half of his own dominions the subject of British arbitration or decision, in conjunction with the other allied powers.

By the loss of Belgium, the political character of the king was entirely changed, his identity altered, and he ceased to be that monarch, whose friendly arbitration had been solicited. Mr. Preble saw the matter in its true light, and expected to have been notified by the minister of foreign affairs of the king's declining to proceed in the arbitration. But he said nothing, and did nothing, to produce that result. Had Mr. Hughes been there, he would, by a suggestion or a hint, not at all offensive, (such as, whether the critical condition of his own domestic affairs did not afford sufficient occupation for his majesty, without troubling himself with the concerns of foreign governments, in which his own subjects had no interest,) have prevailed on the king to give up the papers; or, at least, to suspend proceeding in the arbitration until he could receive fresh instructions from his own government, adapted to the great event which had happened.

But nothing was done at the Hague or at Washington to arrest or suspend the progress of the arbitration. We have neither seen nor heard of any instructions from our secretary of state, founded on the event just mentioned. A senator (now in my eye) informed me, that he had conversed with the late secretary of state about the revolt of Belgium, and asked him, if it would not put a stop to the arbitration. To which the secretary answered, that he supposed of course it would; and yet, as far as we know, he gave no instruction whatever in relation to that event!

Under all these circumstances, our surprise at the issue of the arbitration ought to be less than it otherwise would have been. If the king of the Netherlands had definitively decided the questions actually submitted to him, in consequence of the silent acquiescence of our government in the progress of the arbitration, the honor and faith of the nation might have bound us to submit to the decision, however unjust we deem it. But, Mr. President, I cannot concur with the committee of foreign relations, in considering the paper

communicated by the king of Holland to the two governments as containing a decision. It seems to me to express only the opinion of that monarch, as to what he thinks might be a suitable boundary, and to operate as a recommendation to the parties to adopt it; but leaving them, at the same time, at full liberty to adopt it or not, at their discretion. So far from being a decision, the king professes his inability to *decide* the question submitted to him, for reasons which he states, and he does not decide it, according to the terms of the submission.

Nor can I concur with that committee in believing, that we shall be in danger of incurring the reproaches of the world for not submitting to such an award, if award it can be called. I am quite sure, that the chairman of the committee of foreign affairs, or the present secretary of state, would be fully competent to make out an argument in behalf of the rights of Maine, that would fully vindicate them, and vindicate the course of government, from all reproaches, founded on noncompliance with the advice and recommendation of the sovereign arbiter.

Entertaining these sentiments, as a private citizen, I have no hesitation in expressing my opinion that the American government, disregarding, and declining to be bound by, the award, ought to open a negotiation with Great Britain on the subject of this disputed boundary. I have no apprehensions that such a step would, necessarily bring on war. Great Britain might have adopted one

character. As a part of the executive government, I think the senate has nothing to do with the question, in the present state of it. Holding this opinion, I shall vote against the resolution reported by the committee of foreign affairs, and I shall vote against any other resolution or proposition which may imply or assume a power in the senate of the United States to act in the case. The president, it seems to me, is invested, exclusively, with the power of deciding, in the first instance, whether any and what obligations, if any, have been created upon the American government, in consequence of the act of the king of the Netherlands; and whether it be expedient or not to open a negotiation with Great Britain. And I think he should be left to his constitutional responsibility, to pursue such a course as a sense of duty may prompt.

# N PRESIDENT JACKSON'S VETO OF THE BILL TO RECHARTER THE UNITED STATES BANK.

## IN THE SENATE OF THE UNITED STATES, JULY 12, 1832.

THE charter of the bank of the United States, incorporated in 1816, expired by its itation, in 1836. An act extending the charter, having passed the senate, by a e of twenty-eight to twenty, and the house of representatives, by a vote of one ndred and five to eighty-three, was returned to the senate on the tenth of July, 2, by president Jackson, with his objections at length, against signing the bill, and than two thirds voting for its passage, it was rejected. On the twelfth, the veto ssage being under consideration, Mr. Clay delivered his sentiments in the follow- words.]

I [illegible] some observations to submit on this question which I

last administration, I do not now recollect that it was once. In a period little upwards of three years, the present chief magistrate has employed the veto four times. We now hear quite frequently, in the progress of measures through congress, the statement that the president will veto them, urged as an objection to their passage.

The veto is hardly reconcilable with the genius of representative government. It is totally irreconcilable with it, if it is to be frequently employed in respect to the expediency of measures, as well as their constitutionality. It is a feature of our government, borrowed from a prerogative of the British king. And it is remarkable, that in England it has grown obsolete, not having been used for upwards of a century. At the commencement of the French revolution, in discussing the principles of their constitution, in national convention, the veto held a conspicuous figure. The gay, laughing population of Paris, bestowed on the king the appellation of monsieur Veto, and on the queen, that of madame Veto. The convention finally decreed, that if a measure rejected by the king, should obtain the sanction of two concurring legislatures, it should be a law, notwithstanding the veto. In the constitution of Kentucky, and perhaps in some other of the state constitutions, it is provided that if, after the rejection of a bill by the governor, it shall be passed by a majority of *all* the members elected to *both* houses, it shall become a law, notwithstanding the governor's objections. As a coördinate branch of the government, the chief magistrate has great weight. If, after a respectful consideration of his objections urged against a bill, a majority of all the members elected to the legislature, shall still pass it, notwithstanding his official influence, and the force of his reasons, ought it not to become a law? Ought the opinion of one man to overrule that of a legislative body, twice deliberately expressed?

It cannot be imagined that the convention contemplated the application of the veto, to a question which has been so long, so often, and so thoroughly scrutinized, as that of the bank of the United States, by every department of the government, in almost every stage of its existence, and by the people, and by the state legislatures. Of all the controverted questions which have sprung up under our government, not one has been so fully investigated as that of its power to establish a bank of the United States. More than seventeen years ago, in January, 1815, Mr. Madison then said, in a message to the senate of the United States:

'Waiving the question of the constitutional authority of the legislature to establish an incorporated bank, as being precluded, in my judgment, by repeated recognitions, under varied circumstances, of the validity of such an institution, in acts of the legislative, executive, and judicial branches of the government, accompanied by indications, in different modes, of a concurrence of the general will of the nation.'

Mr. Madison, himself opposed to the first bank of the United States, yielded his own convictions to those of the nation, and all

two years, by the people at large, and in state leg
that of the bank. And this consideration of it has b
by the president himself. In his first message to
December, 1829,) he brought the subject to the view
and the nation, and expressly declared, that it coul
interest of all concerned, be 'too soon' settled. I
subsequent annual messages, in 1830 and 1831, he
the attention of congress to the subject. Thus, after
two years, and after the intervention of the elect
congress, the president deliberately renews the charteri
of the United States. And yet his friends now decl
tion of the question to be premature! It was not
1829 to present the question, but it is premature in 18
and decide it!

After the president had directed public attention to
it became not only a topic of popular conversation,
cussed in the press, and employed as a theme in pop
I was myself interrogated, on more occasions than o
public expression of my sentiments; and a friend of
tucky, a candidate for the state legislature, told me ne
ago, that he was surprised, in an obscure part of hi
hills of Benson,) where there was but little occasion
find himself questioned on the stump, as to the re
bank of the United States. It seemed as if a sort of
had gone out, from head-quarters, to the partisans of
tration, every where, to agitate and make the most of
They have done so, and their condition now remi
fable invented by Dr. Franklin, of the eagle and the
strate that Æsop had not exhausted invention, in th
of his memorable fables. The eagle, you know, I
pounced from his lofty flight in the air upon a cat, ta
a pig. [illegible] some [illegible] ze, quickly [illegible]

who have supposed the president quite serious and in earnest, in presenting it for public consideration, and charge them with prematurely agitating it. And that for electioneering purposes! The other side understands perfectly, the policy of preferring an unjust charge, in order to avoid a well-founded accusation.

If there be an electioneering motive in the matter, who have been actuated by it? Those who have taken the president at his word, and deliberated on a measure which he has repeatedly recommended to their consideration; or those who have resorted to all sorts of means to elude the question — by alternately coaxing and threatening the bank; by an extraordinary investigation into the administration of the bank; and by every species of postponement and procrastination, during the progress of the bill?

Notwithstanding all these dilatory expedients, a majority of congress, prompted by the will and the best interests of the nation, passed the bill. And I shall now proceed, with great respect and deference, to examine some of the objections to its becoming a law, contained in the president's message, avoiding, as much as I can, a repetition of what gentlemen have said who preceded me.

The president thinks that the precedents, drawn from the proceedings of congress, as to the constitutional power to establish a bank, are neutralized, by there being two for and two against the authority. He supposes that one congress, in 1811, and another in 1815, decided against the power. Let us examine both of these cases. The house of representatives in 1811, passed the bill to recharter the bank, and, consequently, affirmed the power. The senate, during the same year, were divided, seventeen and seventeen, and the vice-president gave the casting vote. Of the seventeen who voted against the bank, we know from the declaration of the senator from Maryland, (general Smith,) now present, that he entertained no doubt whatever of the constitutional power of congress to establish a bank, and that he voted on totally distinct ground. Taking away his vote and adding it to the seventeen who voted for the bank, the number would have stood eighteen for, and sixteen against the power. But we know further, that Mr. Gaillard, Mr. Anderson, and Mr. Robinson, made a part of that sixteen; and that in 1815, all three of them voted for the bank. Take those three votes from the sixteen, and add them to the eighteen, and the vote of 1811, as to the question of constitutional power, would have been twenty-one and thirteen. And of these thirteen there might have been others still, who were not governed in their votes by any doubts of the power.

In regard to the congress of 1815, so far from their having entertained any scruples in respect to the power to establish a bank, they actually passed a bank bill, and thereby affirmed the power. It is true that, by the casting vote of the speaker of the house of representatives, (Mr. Cheves,) they rejected another bank bill, not on

a congress opposed to the bank of the United Sta
distinct ground of a want of power to establish it.

And here, Mr. President, I must request the indu
senate, whilst I express a few words in relation of m

I voted, in 1811, against the old bank of the Unitec
delivered on that occasion, a speech, in which, among
I assigned that of its being unconstitutional. My sp
read to the senate, during the progress of this bill, b
of it excited no other regret than that it was re
wretched, bungling, mangling manner.* During
life, (I mention the fact not as claiming any merit fo
great question in which I have ever changed my opi
the bank of the United States. If the researches
had carried him a little further, he would, by turni
more leaves of the same book from which he read m
found that which I made in 1816, in support of the
By the reasons assigned in it for the change of my
ready to abide in the judgment of the present ge
of posterity. In 1816, being speaker of the house
tives, it was perfectly in my power to have said noth
nothing, and thus have concealed the change of opini
mind had undergone. But I did not choose to rem
escape responsibility. I chose publicly to avow my
sion. The war and the fatal experience of its disa
had changed me. Mr. Madison, governor Pleasants
all the public men around me, my political friends,
their opinions from the same causes.

The power to establish a bank is deduced from that
constitution which confers on congress all powers
proper to carry into effect the enumerated powers.
believed a bank of the United States not necessa
reliance might be placed on the local banks in t

'But how stood the case in 1816, when he was called upon to examine the powers of the general government to incorporate a national bank? A total change of circumstances was presented — events of the utmost magnitude had intervened.

'A general suspension of specie payments had taken place, and this had led to a train of circumstances of the most alarming nature. He beheld, dispersed over the immense extent of the United States, about three hundred banking institutions, enjoying, in different degrees, the confidence of the public, shaken as to them all, under no direct control of the general government, and subject to no actual responsibility to the state authorities. These institutions were emitting the actual currency of the United States — a currency consisting of paper, on which they neither paid interest nor principal, whilst it was exchanged for the paper of the community, on which both were paid. We saw these institutions, in fact, exercising what had been considered, at all times, and in all countries, one of the highest attributes of sovereignty — the regulation of the current medium of the country. They were no longer competent to assist the treasury, in either of the great operations of collection, deposit or distribution of the public revenues. In fact, the paper which they emitted, and which the treasury, from the force of events, found itself constrained to receive, was constantly obstructing the operations of that department; for it would accumulate where it was not wanted, and could not be used where it was wanted, for the purposes of government, without a ruinous and arbitrary brokerage. Every man who paid to or received from the government, paid or received as much less than he ought to have done, as was the difference between the medium in which the payment was effected and specie. Taxes were no longer uniform. In New England, where specie payments had not been suspended, the people were called upon to pay larger contributions than where they were suspended. In Kentucky as much more was paid by the people, in their taxes, than was paid, for example, in the state of Ohio, as Kentucky paper was worth more than Ohio paper.

* * * * * * * * * * *

'Considering, then, that the state of the currency was such that no thinking man could contemplate it without the most serious alarm; that it threatened general distress, if it did not ultimately lead to convulsion and subversion of the government; it appeared to him to be the duty of congress to apply a remedy, if a remedy could be devised. A national bank, with other auxiliary measures, was proposed as that remedy. Mr. Clay said he determined to examine the question with as little prejudice as possible, arising from his former opinion; he knew that the safest course to him, if he pursued a cold, calculating prudence, was to adhere to that opinion, right or wrong. He was perfectly aware that if he changed, or seemed to change it, he should expose himself to some censure; but, looking at the subject with the light shed upon it, by events happening since the commencement of the war, he could no longer doubt. * * * He preferred to the suggestions of the pride of consistency, the evident interests of the community, and determined to throw himself upon their justice and candor.'

The interest which foreigners hold in the existing bank of the United States, is dwelt upon in the message as a serious objection to the recharter. But this interest is the result of the assignable nature of the stock; and if the objection be well founded, it applies to government stock, to the stock in local banks, in canal and other companies, created for internal improvements, and every species of money or movables in which foreigners may acquire an interest. The assignable character of the stock is a quality conferred not for the benefit of foreigners, but for that of our own citizens. And the fact of its being transferred to them is the effect of the balance of trade being against us — an evil, if it be one, which the American system will correct. All governments wanting capital, resort to foreign nations possessing it in superabundance, to obtain it. Sometimes the resort is even made by one to another belligerant nation. During our revolutionary war we obtained foreign capital (Dutch and French) to aid us. During the late war

[illegible] Tennessee, (Mr. White,) asks what wou
condition of this country, if, during the late w
existed, with such an interest in it as foreigners
tell him. We should have avoided many of th
war, perhaps those of Detroit and at this place.
would have possessed ample means for its vig
and the interest of foreigners, British subjects
have operated upon them, not upon us. Will i
evil to be obliged to remit in specie to foreigners
which they now have in this bank, instead of ret
within the country to stimulate its industry and

The president assigns in his message a conspi
alleged injurious operation of the bank on th
western people. They ought to be much indeb
kindness manifested towards them; although, l
much reason to deprecate it. The people of al
this bank about thirty millions, which have been
and the president thinks that the payments fo
other facilities which they derive from the oper
are so onerous as to produce 'a drain of their c
country can bear without inconvenience and o
His remedy is to compel them to pay the whole
they have contracted in a period short of four
President, if they cannot pay the interest without
they to pay the principal? If they cannot pay a
to pay the whole? Whether the payment of th
not a burden to them, is a question for them
respecting which they might be disposed to d
kindness of the president. If, instead of borrowi
from the bank, they had borrowed a like sum fro
Jacob Astor, or any other banker, what would
who should come to them and say, 'gentlemen o
ruin you to pay the interest on that debt and

course of things? The business and commerce of the west are carried on with New Orleans, with the southern and southwestern states and with the Atlantic cities. We transport our dead or inanimate produce to New Orleans, and receive in return checks or drafts of the bank of the United States at a premium of a half per centum. We send by our drovers our live stock to the south and southwest, and receive similar checks in return. With these drafts or checks our merchants proceed to the Atlantic cities, and purchase domestic or foreign goods for western consumption. The lead and fur trade of Missouri and Illinois is also carried on principally through the bank of the United States. The government also transfers to places where it is wanted, through that bank, the sums accumulated at the different land-offices, for purchases of the public lands.

Now all these varied operations must go on; all these remittances must be made, bank of the United States or no bank. The bank does not create, but facilitates them. The bank is a mere vehicle; just as much so as the steamboat is the vehicle which transports our produce to the great mart of New Orleans, and not the grower of that produce. It is to confound cause and effect, to attribute to the bank the transfer of money from the west to the east. Annihilate the bank to-morrow, and similar transfers of capital, the same description of pecuniary operations, must be continued; not so well, it is true, but performed they must be, ill or well, under any state of circumstances.

The true questions are, how are they now performed? how were they conducted prior to the existence of the bank? how would they be after it ceased? I can tell you what was our condition before the bank was established; and, as I reason from the past to future experience, under analogous circumstances, I can venture to predict what it will probably be without the bank.

Before the establishment of the bank of the United States, the exchange business of the west was carried on by a premium, which was generally paid on all remittances to the east of two and a half per centum. The aggregate amount of all remittances, throughout the whole circle of the year, was very great, and instead of the sum then paid, we now pay half per centum, or nothing, if notes of the bank of the United States be used. Prior to the bank, we were without the capital of the thirty millions which that institution now supplies, stimulating our industry and invigorating our enterprise. In Kentucky we have no specie-paying bank, scarcely any currency other than that of paper of the bank of the United States and its branches.

How is the west to pay this enormous debt of thirty millions of dollars? It is impossible. It cannot be done. General distress, certain, wide-spread, inevitable ruin, must be the consequences of an attempt to enforce the payment. Depression in the value of all property, sheriffs' sales and sacrifices, bankruptcy, must necessarily

ensue, and, with them, relief laws, paper money, a prostration of the courts of justice, evils from which we have just emerged, must again, with all their train of afflictions, revisit our country. But it is argued by the gentleman from Tennessee, (Mr. White,) that similar predictions were made, without being realized, from the downfall of the old bank of the United States. It is, however, to be recollected, that the old bank did not possess one third of the capital of the present; that it had but one office west of the mountains, whilst the present has nine; and that it had little or no debt due to it in that quarter, whilst the present bank has thirty millions. The war, too, which shortly followed the downfall of the old bank, and the suspension of specie payments, which soon followed the war, prevented the injury apprehended from the discontinuance of the old bank.

The same gentleman further argues, that the day of payment must come; and he asks when, better than now? It is to be indefinitely postponed; is the charter of the present bank to be perpetual? Why, Mr. President, all things — governments, republics, empires, laws, human life — doubtless are to have an end; but shall we therefore accelerate their termination? The west is now young, wants capital, and its vast resources, needing nourishment, are daily developing. By and by, it will accumulate wealth from its industry and enterprise, and possess its surplus capital. The

legislation, in its commencement and in its termination concentrate in the president? When we shall have reached that state of things, the election and annual sessions of congress will be a useless charge upon the people, and the whole business of government may be economically conducted by ukases and decrees.

Congress does sometimes receive the suggestions and opinions of the heads of department, as to new laws. And, at the commencement of this session, in his annual report, the secretary of the treasury stated his reasons at large, not merely in favor of a bank, but in support of the renewal of the charter of the existing bank. Who could have believed that that responsible officer was communicating to congress opinions directly adverse to those entertained by the president himself? When before has it happened, that the head of a department recommended the passage of a law which, being accordingly passed and presented to the president, is subjected to his veto? What sort of a bank it is, with a project of which the president would have designed to furnish congress, if they had applied to him, he has not stated. In the absence of such statement, we can only conjecture that it is his famous treasury bank, formerly recommended by him, from which the people have recoiled with the instinctive horror, excited by the approach of the cholera.

The message states, that 'an investigation *unwillingly* conceded, and so *restricted* in time as necessarily to make it *incomplete* and *unsatisfactory*, disclose enough to excite suspicion and alarm.' As there is no prospect of the passage of this bill, the president's objections notwithstanding, by a constitutional majority of two thirds, it can never reach the house of representatives. The members of that house, and especially its distinguished chairman of the committee of ways and means, who reported the bill, are, therefore, cut off from all opportunity of defending themselves. Under these circumstances, allow me to ask how the president has ascertained that the investigation was *unwillingly* conceded? I have understood directly the contrary; and that the chairman, already referred to, as well as other members in favor of the renewal of the charter, promptly consented to and voted for the investigation. And we all know that those in support of the renewal could have prevented the investigation, and that they did not. But suspicion and alarm have been excited! SUSPICION AND ALARM! Against whom is this suspicion? The house, or the bank, or both?

Mr. President, I protest against the right of any chief magistrate to come into either house of congress, and scrutinize the motives of its members; to examine whether a measure has been passed with promptitude or repugnance; and to pronounce upon the willingness or unwillingness with which it has been adopted or rejected. It is an interference in concerns which partake of a domestic nature. The official and constitutional relations between

constitution as he pleases. His language is, '
who takes an oath to support the constitution,
support it as he understands it, and not as it
others.' * * * 'The opinion of the judge
thority over congress than the opinion of con
judges; and *on that point the president is ina*
Now, Mr. President, I conceive, with great
president has mistaken the purport of the oath
stitution of the United States. No one swears
*understands it*, but to support it simply as it is
are bound to obey the laws, of which the con
preme; but must they obey them as they are, or
*them?* If the obligation of obedience is limited
the measure of information; in other words, if t
to obey the constitution only as he understands i
the consequence? The judge of an inferior co
the mandate of a superior tribunal, because it w
ity to the constitution, *as he understands it;* a cu
would disobey a circular from the treasury de
contrary to the constitution, *as he understands*
minister would disregard an instruction from th
municated through the department of state, beca
to the constitution, *as he understands it;* and a s
in the army or navy, would violate the orders
because they were not in accordance with the c
*understands it.* We should have nothing settle
nothing fixed. There would be general disord
throughout every branch of administration, from
lowest officers—universal nullification. For wh
of the president but that of South Carolina appli
union? The president independent both of
supreme court! only bound to execute the law

between those which he would, and those which he would not, execute, because they were or were not agreeable to the constitution, *as he understands it.*

There is another constitutional doctrine contained in the message, which is entirely new to me. It asserts that 'the government of the United States have no constitutional power to purchase lands within the states,' except 'for the erection of forts, magazines, arsenals, dockyards, and other needful buildings;' and even for these objects, only 'by the consent of the legislature of the state in which the same shall be.' Now sir, I had supposed that the right of congress to purchase lands in any state was incontestable; and, in point of fact, it probably at this moment owns land in every state of the union, purchased for taxes, or as a judgment or mortgage creditor. And there are various acts of congress which regulate the purchase and transfer of such lands. The advisers of the president have confounded the faculty of purchasing lands with the exercise of exclusive jurisdiction, which is restricted by the constitution to the forts and other buildings described.

The message presents some striking instances of discrepancy. First, it contests the right to establish one bank, and objects to the bill that it limits and restrains the power of congress to establish several. Second, it urges that the bill does not recognise the power of state taxation generally; and complains that facilities are afforded to the exercise of that power in respect to the stock held by individuals. Third, it objects that any bonus is taken, and insists that not enough is demanded. And fourth, it complains that foreigners have too much influence, and that stock transferred loses the privilege of representation in the elections of the bank, which, if it were retained, would give them more.

Mr. President, we are about to close one of the longest and most arduous sessions of congress under the present constitution; and when we return among our constituents, what account of the operations of their government shall we be bound to communicate? We shall be compelled to say, that the supreme court is paralysed, and the missionaries retained in prison in contempt of its authority, and in defiance of numerous treaties and laws of the United States; that the executive, through the secretary of the treasury, sent to congress a tariff bill which would have destroyed numerous branches of our domestic industry, and to the final destruction of all; that the veto has been applied to the bank of the United States, our only reliance for a sound and uniform currency; that the senate has been violently attacked for the exercise of a clear constitutional power; that the house of representatives have been unnecessarily assailed; and that the president has promulgated a rule of action for those who have taken the oath to support the constitution of the United States, that must, if there be practical conformity to it, introduce general nullification, and end in the absolute subversion of the government.

# ON INTRODUCING THE COMPROMISE TARIFF BILL.

## IN THE SENATE OF THE UNITED STATES, FEBRUARY 12, 1833.

[THE protective tariff laws of 1824 and 1828 were very unsatisfactory to the politicians of South Carolina, although under the influence of the policy of those laws, that state, in common with the whole union, had enjoyed a high degree of prosperity. The principles of the American system of protection and internal improvement had been advocated by Mr. Calhoun and other South Carolina statesmen in 1816, and the tariff then adopted, although protective, was regarded as the settled policy of the country. These gentlemen, however, thought proper subsequently to change their ground, and under their influence combined with that of others who had not changed, the state of South Carolina became agitated and in hostile array to protection to American industry. Among other schemes of agitation which grew up at this period, was the doctrine of *nullification*, or the right of any state of the union to annul or make void and resist a law of congress, if such state by its legal authorities decided said law to be unconstitutional. Open rebellion to the laws was threatened, and general Jackson, as president, issued a proclamation, declaring his intention to enforce the acts of congress. That body being soon after in session, the friends of Jackson's

which I shall have the honor to propose, and with the condition of the country. When I survey, sir, the whole face of our country, I behold all around me evidences of the most gratifying prosperity, a prospect which would seem to be without a cloud upon it, were it not that through all parts of the country there exist great dissensions and unhappy distinctions, which, if they can possibly be relieved and reconciled by any broad scheme of legislation adapted to all interests, and regarding the feelings of all sections, ought to be quieted; and leading to which object any measure ought to be well received.

In presenting the modification of the tariff laws, which I am now about to submit, I have two great objects in view. My first object looks to the tariff. I am compelled to express the opinion, formed after the most deliberate reflection, and on full survey of the whole country, that, whether rightfully or wrongfully, the tariff stands in imminent danger. If it should be preserved during this session, it must fall at the next session. By what circumstances, and through what causes, has arisen the necessity for this change in the policy of our country, I will not pretend now to elucidate. Others there are, who may differ from the impressions which my mind has received upon this point. Owing, however, to a variety of concurrent causes, the tariff, as it now exists, is in imminent danger, and if the system can be preserved beyond the next session, it must be by some means not now within the reach of human sagacity. The fall of that policy, sir, would be productive of consequences calamitous indeed. When I look to the variety of interests which are involved, to the number of individuals interested, the amount of capital invested, the value of the buildings erected, and the whole arrangement of the business for the prosecution of the various branches of the manufacturing art, which have sprung up under the fostering care of this government, I cannot contemplate any evil equal to the sudden overthrow of all those interests. History can produce no parallel to the extent of the mischief which would be produced by such a disaster. The repeal of the edict of Nantes itself was nothing in comparison with it. That condemned to exile and brought to ruin a great number of persons. The most respectable portion of the population of France was condemned to exile and ruin by that measure. But, in my opinion, sir, the sudden repeal of the tariff policy would bring ruin and destruction on the whole people of this country. There is no evil, in my opinion, equal to the consequences which would result from such a catastrophe.

What, sir, are the complaints which unhappily divide the people of this great country? On the one hand it is said, by those who are opposed to the tariff, that it unjustly taxes a portion of the people, and paralyses their industry; that it is to be a perpetual operation; that there is to be no end to the system; which, right

before it is yet nine months old; passed, as it was, u
stances of extraordinary deliberation, the fruit of nine n
before we know any thing of its experimental effec
before it commences its operations; we are required
On one side we are urged to repeal a system which is
ruin; on the other side, the check now imposed on er
the state of alarm in which the public mind has l
renders all prudent men desirous, looking ahead a little
a state of things, on the stability of which they may
to count. Such is the state of feeling on the one side
other. I am anxious to find out some principle of m
modation, to satisfy, as far as practicable, both parties
the stability of our legislation; and at some distant da
too distant, when we take into view the magnitude of
which are involved — to bring down the rate of d
revenue standard, for which our opponents have so lor
The basis on which I wish to found this modificatic
time; and the several parts of the bill to which I am
the attention of the senate, are founded on this basis
to give protection to our manufactured articles, adequa
for a length of time, which, compared with the lengt
life, is very long, but which is short, in proportion to t
discretion of every wise and parental system of
securing the stability of legislation, and allowing time
reduction, on one side; and, on the other, proposing
duties to that revenue standard, for which the oppo
system have so long contended. I will now procee
provisions of the bill before the senate, with a view t
attention to the true character of the bill.

[Mr. Clay then proceeded to read the first section of the bill.]

It will be recollected, that at the last session of congress, with a view to make a concession to the southern section of the country, low-priced woollens, those supposed to enter into the consumption of slaves and the poorer classes of persons, were taken out of the general class of duties on woollens, and the duty on them reduced to five per centum. It will be also recollected, that at that time the gentlemen from the south said that this concession was of no consequence, and that they did not care for it, and I believe that they do not now consider it of any greater importance. As, therefore, it has failed of the purpose for which it was taken out of the common class, I think it ought to be brought back again, and placed by the side of the other description of woollens, and made subject to the same reduction of duty as proposed by this section.

[Having next read through the third section of the bill, Mr. Clay said:]

After the expiration of a term of years, this section lays down a rule by which the duties are to be reduced to the revenue standard, which has been so long and so earnestly contended for. Until otherwise directed, and in default of provision being made for the wants of the government in 1842, a rule is thus provided for the rate of duties thereafter, congress being, in the meantime, authorized to adopt any other rule which the exigences of the country, or its financial condition, may require. That is to say, if, instead of the duty of twenty per centum proposed, fifteen or seventeen per centum of duty is sufficient, or twenty-five per centum should be found necessary, to produce a revenue to defray the expenses of an economical administration of the government, there is nothing to prevent either of those rates, or any other, from being fixed upon; whilst the rate of twenty per centum is introduced to guard against any failure on the part of congress to make the requisite provision in due season.

This section of the bill contains also another clause, suggested by that spirit of harmony and conciliation which I pray may preside over the councils of the union at this trying moment. It provides (what those persons who are engaged in manufactures have so long anxiously required for their security) that duties shall be paid in ready money; and we shall thus get rid of the whole of that credit system, into which an inroad was made, in regard to woollens, by the act of the last session. This section further contains a proviso that nothing in any part of this act shall be construed to interfere with the freest exercise of the power of congress to lay any amount of duties, in the event of war breaking out between this country and any foreign power.

[Mr Clay then read the fourth section of the bill.]

One of the considerations strongly urging for a reduction of the

ariff at this time is, that the government is likely to be placed in a lilemma by having an overflowing revenue; and this apprehen-ion is the ground of an attempt totally to change the protective olicy of the country. The section which I have read is an effort o guard against this evil, by relieving altogether from duty a por-ion of the articles of import now subject to it. Some of these vould, under the present rate of duty upon them, produce a considerable revenue; the article of silks alone would yield half a million of dollars per annum. If it were possible to pacify pres-ent dissensions, and let things take their course, I believe that no difficulty need be apprehended. If the bill which this body passed at the last session of congress, and has again passed at this session, shall pass the other house, and become a law, and the gradual reduction of duties should take place which is contem-plated by the first section of this bill, we shall have settled two (if not three) of the great questions which have agitated this country, hat of the tariff, of the public lands, and, I will add, of internal mprovement also. For, if there should still be a surplus revenue, hat surplus might be applied, until the year 1842, to the comple-ion of the works of internal improvement already commenced; and, after 1842, a reliance for all funds for purposes of internal mprovement should be placed upon the operation of the land bill, o which I have already referred.

It is not my object in referring to that measure in connection with

mean to impute any improper design to any one; but, if it had been so intended, no scheme for getting rid of the tariff could have been more artfully devised to effect its purposes, than that which thus calculated the revenue, and, in addition, assumed that the expenditure of the government every year would be so much, and so forth. Can any one here say what the future expenditure of the government will be? In this young, great, and growing community, can we say what will be the expenditure of the government even a year hence, much less what it will be three, or four, or five years hence? Yet it has been estimated, on assumed amounts, founded on such uncertain data, both of income and expenditure, that the revenue might be reduced so many millions a year!

I ask pardon for this digression, and return to the examination of articles in the fourth section, which are proposed to be left free of duty. The duties on these articles now vary from five to ten per centum ad valorem; but low as they are, the aggregate amount of revenue which they produce is considerable. By the bill of the last session, the duties on French silks was fixed at five per centum, and that on Chinese silks at ten per centum ad valorem. By the bill now proposed, the duty on French silks is proposed to be repealed, leaving the other untouched. I will frankly state why I made this distinction. It has been a subject of anxious desire with me to see our commerce with France increased. France, though not so large a customer in the great staples of our country as Great Britain, is a great growing customer. I have been much struck with a fact going to prove this, which accidentally came to my knowledge the other day; which is, that within the short period of fourteen years, the amount of consumption in France of the great southern staple of cotton has been *tripled*. Again, it is understood that the French silks of the lower grades of quality cannot sustain a competition with the Chinese without some discrimination of this sort. I have understood, also, that the duty imposed upon this article at the last session has been very much complained of on the part of France; and, considering all the circumstances connected with the relations between the two governments, it appears to me to be desirable to make this discrimination in favor of the French product. If the senate should think differently, I shall be content. If, indeed, they should think proper to strike out this section altogether, I shall cheerfully submit to their decision.

[After reading the fifth and sixth sections, Mr. Clay said:]

I will now take a few of some of the objections which will be made to the bill. It may be said that the act is prospective, that it binds our successors, and that we have no power thus to bind them. It is true that the act is prospective, and so is almost every act which we ever passed, but we can repeal it the next day. It

is the established usage to give all acts a prospective operation. In every tariff there are some provisions which go into operation immediately, and others at a future time. Each congress legislate according to their own views of propriety; their act does not bind their successors, but creates a species of public faith, which will not rashly be broken. But if this bill shall go into operation, as I hope, even against hope, that it may, I doubt not that it will be adhered to by all parties. There is but one contingency which will render a change necessary, and that is the intervention of a war, which is provided for in the bill. The hands of congress are left untied in this event, and they will be at liberty to resort to any mode of taxation, which they may propose. But if we suppose peace to continue, there will be no motive for disturbing the arrangement, but on the contrary, every motive to carry it into effect. In the next place, it will be objected to the bill, by the friends of the protective policy, of whom I hold myself to be one, for my mind is immutably fixed in favor of that policy, that it abandons the power of protection. But I contend, in the first place, that a suspension of the exercise of the power is not an abandonment of it; for the power is in the constitution according to our theory, was put there by its framers, and can only be dislodged by the people. After the year 1842, the bill provides that the power shall be exercised in a certain mode. There are four modes by which the industry of the country can be protected

interests in opposition to foreign legislation was the basis of this system. The fourth mode in which protection can be afforded to domestic industry, is to admit free of duty every article which aided the operations of the manufacturers. These are the four modes for protecting our industry; and to those who say that the bill abandons the power of protection, I reply, that it does not touch that power; and that the fourth mode, so far from being abandoned, is extended and upheld by the bill. The most that can be objected to the bill by those with whom I coöperate to support the protective system, is, that, in consideration of nine and a half years of peace, certainty, and stability, the manufacturers relinquished some advantages which they now enjoy. What is the principle which has always been contended for in this and in the other house? After the accumulation of capital and skill, the manufacturers will stand alone, unaided by the government, in competition with the imported articles from any quarter. Now give us time; cease all fluctuations and agitations, for nine years, and the manufacturers in every branch will sustain themselves against foreign competition. If we can see our way clearly for nine years to come, we can safely leave to posterity to provide for the rest. If the tariff be overthrown, as may be its fate next session, the country will be plunged into extreme distress and agitation. I want harmony. I wish to see the restoration of those ties which have carried us triumphantly through two wars. I delight not in this perpetual turmoil. Let us have peace, and become once more united as a band of brothers.

It may be said that the farming interest cannot subsist under a twenty per centum ad valorem duty. My reply is, 'sufficient for the day is the evil thereof.' I will leave it to the day when the reduction takes effect, to settle the question. When the reduction takes place, and the farmer cannot live under it, what will he do? I will tell you what he ought to do. He ought to try it — make a fair experiment of it — and if he cannot live under it, let him come here and say that he is bankrupt and ruined. If then nothing can be done to relieve him, sir, I will not pronounce the words, for I will believe that something will be done, and that relief will be afforded, without hazarding the peace and integrity of the union. The confederacy is an excellent contrivance, but it must be managed with delicacy and skill. There are an infinite variety of prejudices and local interests to be regarded, but all should be made to yield to the union.

If the system proposed cannot be continued, let us try some intermediate system, before we think of any other dreadful alternative. Sir, it will be said, on the other hand — for the objections are made by the friends of protection, principally — that the time is too long; that the intermediate reductions are too inconsiderable, and that there is no guarantee that, at the end of the time stipulated, the reduction proposed would be allowed to take effect. In

the first place should be recollected the diversified interests of the country; the measures of the government which preceded the establishment of manufactures; the public faith in some degree pledged for their security; and the ruin in which rash and hasty legislation would involve them. I will not dispute about terms. It would not, in a court of justice, be maintained that the public faith is pledged for the protection of manufactures; but there are other pledges which men of honor are bound by, besides those of which the law can take cognizance.

If we excite, in our neighbor, a reasonable expectation which induces him to take a particular course of business, we are in honor bound to redeem the pledge thus tacitly given. Can any man doubt that a large portion of our citizens believed that the system would be permanent? The whole country expected it. The security against any change of the system proposed by the bill, is in the character of the bill, as a compromise between two conflicting parties. If the bill should be taken by common consent, as we hope it will be, the history of the revenue will be a guarantee of its permanence. The circumstances under which it was passed will be known and recorded; and no one will disturb a system which was adopted with a view to give peace and tranquillity to the country.

The descending gradations by which I propose to arrive at the

suffered to lie dormant, if war should render it necessary, protection might be carried up to prohibition; while if the country should remain at peace, and this measure go into full operation, the duties will be gradually lowered down to the revenue standard, which has been so earnestly wished for.

But suppose that I am wrong in all these views, for there are no guarantees, in one sense of the term, of human infallibility. Suppose a different state of things in the south; that this senate, from causes which I shall not dwell upon now, but which are obvious to every reflecting man in this country — causes which have operated for years past, and which continue to operate — suppose, for a moment, that there should be a majority in the senate in favor of the southern views, and that they should repeal the whole system at once, what guarantee would we have that the repealing of the law would not destroy those great interests which it is so important to preserve? What guarantee will you have that the thunders of those powerful manufactures will not be directed against your capitol, because of this abandonment of their interests, and because you have given them no protection against foreign legislation. Sir, if you carry your measure of repeal without the consent, at least, of a portion of those who are interested in the preservation of manufactures, you have no security, no guarantee, no certainty, that any protection will be continued. But if the measure should be carried by the common consent of both parties, we shall have all security; history will faithfully record the transaction; narrate under what circumstances the bill was passed; that it was a pacifying measure; that it was as oil poured from the vessel of the union to restore peace and harmony to the country. When all this was known, what congress, what legislature, would mar the guarantee? What man who is entitled to deserve the character of an American statesman, would stand up in his place in either house of congress, and disturb this treaty of peace and amity?

Sir, I will not say that it may not be disturbed. All that I say is, that here is all the reasonable security that can be desired by those on the one side of the question, and much more than those on the other would have by any unfortunate concurrence of circumstances. Such a repeal of the whole system should be brought about as would be cheerfully acquiesced in by all parties in this country. All parties may find in this measure some reasons for objection. And what human measure is there which is free from objectionable qualities? It has been remarked, and justly remarked, by the great father of our country himself, that if that great work which is the charter of our liberties, and under which we have so long flourished, had been submitted, article by article, to all the different states composing this union, that the whole would have been rejected; and yet when the whole was presented together, it was accepted as a whole. I will admit that my friends do not get

all they could wish for; and the gentlemen on the other side do not obtain all they might desire; but both will gain all that in my humble opinion is proper to be given in the present condition of this country. It may be true that there will be loss and gain in this measure. But how is this loss and gain distributed? Among our countrymen. What we lose, no foreign land gains; and what we gain, will be no loss to any foreign power. It is among ourselves the distribution takes place. The distribution is founded on that great principle of compromise and concession which lies at the bottom of our institutions, which gave birth to the constitution itself, and which has continued to regulate us in our onward march, and conducted the nation to glory and renown.

It remains for me now to touch another topic. Objections have been made to all legislation at this session of congress, resulting from the attitude of one of the states of this confederacy. I confess that I felt a very strong repugnance to any legislation at all on this subject at the commencement of the session, principally because I misconceived the purposes, as I have found from subsequent observation, which that state has in view. Under the influence of more accurate information, I must say that the aspect of things since the commencement of the session has, in my opinion, greatly changed. When I came to take my seat on this floor, I had supposed that a member of this union had taken an attitude of

in her favor. If we submitted to her, we should thus stand but a poor chance of obtaining justice. She disclaims any intention of resorting to force unless we should find it indispensable to execute the laws of the union by applying force to her. It seems to me the aspect of the attitude of South Carolina has changed; or rather, the new light which I have obtained, enables me to see her in a different attitude; and I have not truly understood her until she passed her laws, by which it was intended to carry her ordinance into effect. Now, I venture to predict that the state to which I have referred must ultimately fail in her attempt. I disclaim any intention of saying anything to the disparagement of that state. Far from it. I think that she has been rash, intemperate, and greatly in error; and, to use the language of one of her own writers, made up an issue unworthy of her. From one end to the other of this continent, by acclamation, as it were, nullification has been put down, and put down in a manner more effectually than by a thousand wars or a thousand armies — by the irresistible force, by the mighty influence of public opinion. Not a voice beyond the single state of South Carolina has been heard in favor of the principle of nullification, which she has asserted by her own ordinance; and I will say, that she must fail in her lawsuit. I will express two opinions; the first of which is, that it is not possible for the ingenuity of man to devise a system of state legislation to defeat the execution of the laws of the United States, which cannot be countervailed by federal legislation.

A state might take it upon herself to throw obstructions in the way of the execution of the laws of the federal government; but federal legislation can follow at her heel quickly, and successfully counteract the course of state legislation. The framers of the constitution foresaw this, and the constitution has guarded against it. What has it said? It is declared, in the clause enumerating the powers of this government, that congress shall have all power to carry into effect all the powers granted by the constitution, in any branch of the government under the sweeping clause; for they have not specified contingencies, because they could not see what was to happen; but whatever powers were necessary, all, all are given to this government by the fundamental law, necessary to carry into effect those powers which are vested by that constitution in the federal government. That is one reason. The other is, that it is not possible for any state, provided this government is administered with prudence and propriety, so to shape its laws as to throw upon the general government the responsibility of first resorting to the employment of force; but, if force at all is employed, it must be by state legislation, and not federal legislation; and the responsibility of employing that force must rest with, and attach to, the state itself.

I shall not go into the details of this bill. I merely throw out

these sentiments for the purpose of showing you, that South Carolina, having declared her purpose to be this, to make an experiment whether, by a course of legislation, in a conventional form, or a legislative form of enactment, she can defeat the execution of certain laws of the United States, I for one, will express my opinion, that I believe it is utterly impracticable, whatever course of legislation she may choose to adopt, for her to succeed. I am ready, for one, to give the tribunals and the executive of the country, whether that executive has or has not my confidence, the necessary measures of power and authority to execute the laws of the union. But I would not go a hair's breadth further than what was necessary for those purposes. Up to that point I would go, and cheerfully go; for it is my sworn duty, as I regard it, to go to that point.

Again; taking this view of the subject, South Carolina is doing nothing more, except that she is doing it with more rashness, than some other states have done — that respectable state, Ohio, and, if I am not mistaken, the state of Virginia also. An opinion prevailed some years ago, that if you put the laws of a state into a penal form, you could oust federal jurisdiction out of the limits of that state, because the state tribunals had an exclusive jurisdiction over penalties and crimes, and it was inferred that no federal court could wrest the authority from them. According to that principle, the state of Ohio passed the laws taxing the branch of the United

in its attempt to arrest the federal arm in the exercise of its lawful authority. South Carolina has attempted, and, I repeat it, in a much more offensive way attempted, to defeat the execution of the laws of the United States. But it seems, that, under all the circumstances of the case, she has, for the present, determined to stop here, in order that, by our legislation, we may prevent the necessity of her advancing any further. But there are other reasons for the expediency of legislation at this time. Although I came here impressed with a different opinion, my mind has now become reconciled.

The memorable first of February is past. I confess I did feel an unconquerable repugnance to legislation until that day should have passed, because of the consequences that were to ensue. I hoped that the day would go over well. I feel, and I think that we must all confess, we breathe a freer air than when the restraint was upon us. But this is not the only consideration. South Carolina has practically postponed her ordinance, instead of letting it go into effect, till the fourth of March. Nobody who has noticed the course of events, can doubt that she will postpone it by still further legislation, if congress should rise without any settlement of this question. I was going to say, my life on it, she will postpone it to a period subsequent to the fourth of March. It is in the natural course of events. South Carolina must perceive the embarrassments of her situation. She must be desirous — it is unnatural to suppose that she is not — to remain in the union. What! a state whose heroes in its gallant ancestry fought so many glorious battles along with those of the other states of this union — a state with which this confederacy is linked by bonds of such a powerful character! I have sometimes fancied what would be her condition if she goes out of this union; if her five hundred thousand people should at once be thrown upon their own resources. She is out of the union. What is the consequence? She is an independent power. What then does she do? She must have armies and fleets, and an expensive government; have foreign missions; she must raise taxes; enact this very tariff, which has driven her out of the union, in order to enable her to raise money, and to sustain the attitude of an independent power. If she should have no force, no navy to protect her, she would be exposed to piratical incursions. Their neighbor, St. Domingo, might pour down a horde of pirates on her borders, and desolate her plantations. She must have her embassies; therefore must she have a revenue. And, let me tell you, there is another consequence, an inevitable one; she has a certain description of persons recognised as property south of the Potomac, and west of the Mississippi, which would be no longer recognised as such, except within their own limits. This species of property would sink to one half of its present value, for it is Louisiana and the southwestern states which are her great market.

But I will not dwell on this topic any longer. I say it is utterly impossible that South Carolina ever desired, for a moment, to become a separate and independent state. If the existence of the ordinance, while an act of congress is pending, is to be considered as a motive for not passing that law, why, this would be found to be a sufficient reason for preventing the passing of any laws. South Carolina, by keeping the shadow of an ordinance even before us, as she has it in her power to postpone it from time to time, would defeat our legislation for ever. I would repeat, that under all the circumstances of the case, the condition of South Carolina is only one of the elements of a combination, the whole of which, together, constitutes a motive of action which renders it expedient to resort, during the present session of congress, to some measure in order to quiet and tranquillize the country.

If there be any who want civil war, who want to see the blood of any portion of our countrymen spilt, I am not one of them. I wish to see war of no kind; but, above all, I do not desire to see a civil war. When war begins, whether civil or foreign, no human sight is competent to foresee when, or how, or where it is to terminate. But when a civil war shall be lighted up in the bosom of our own happy land, and armies are marching, and commanders are winning their victories, and fleets are in motion on our coast, tell me, if you can, tell me, if any human

member of this body to bring into the consideration of this measure, which I have had the honor of proposing, the same love of country which, if I know myself, has actuated me, and the same desire of restoring harmony to the union, which has prompted this effort. If we can forget for a moment — but that would be asking too much of human nature — if we could suffer, for one moment, party feelings and party causes — and, as I stand here before my God, I declare I have looked beyond those considerations, and regarded only the vast interests of this united people — I should hope, that under such feelings, and with such dispositions, we may advantageously proceed to the consideration of this bill, and heal, before they are yet bleeding, the wounds of our distracted country.

# IN SUPPORT OF THE COMPROMISE TARIFF ACT.

IN THE SENATE OF THE UNITED STATES, FEBRUARY 25, 1833.

[THE compromise tariff bill introduced by Mr. Clay, and supported by him in the foregoing speech of the twelfth of February, although favorably received by a majority, encountered considerable opposition from various motives. Mr. Forsyth, of Georgia, and others, met the proposition with sarcastic remarks, while Mr. Webster, and other northern senators, objected to it as surrendering too much of the protective system. To these objections Mr. Clay replied as follows. The bill finally passed the house of representatives (to obviate doubts as to its being a revenue bill) on the twenty-sixth of February, by a vote of one hundred and twenty to eighty-four, and the senate on the first of March, by twenty-nine to sixteen.]

BEING anxious, Mr. President, that this bill should pass, and pass this day, I will abridge as much as I can, the observations I am

practically defective. He does not object to the gradual, but very inconsiderable, reduction of duties which is made prior to 1842. To that he could not object, because it is a species of prospective provision, as he admits, in conformity with numerous precedents on our statute-book. He does not object so much to the state of the proposed law prior to 1842, during a period of nine years; but throwing himself forward to the termination of that period, he contends that congress will then find itself under inconvenient shackles, imposed by our indiscretion. In the first place, I would remark, that the bill contains no obligatory pledges; it could make none; none are attempted. The power over the subject is in the constitution; put there by those who formed it, and liable to be taken out only by an amendment of the instrument. The next congress, and every succeeding congress, will undoubtedly have the power to repeal the law whenever they may think proper. Whether they will exercise it or not, will depend upon a sound discretion, applied to the state of the whole country, and estimating fairly the consequences of the repeal, both upon the general harmony and the common interests. Then the bill is founded in a spirit of compromise. Now, in all compromises there must be mutual concessions. The friends of free trade insist, that duties should be laid in reference to revenue alone. The friends of American industry say, that another, if not paramount object in laying them, should be, to diminish the consumption of foreign and increase that of domestic products. On this point the parties divide, and between these two opposite opinions a reconciliation is to be effected, if it can be accomplished. The bill assumes as a basis adequate protection for nine years, and less beyond that term. The friends of protection say to their opponents, we are willing to take a lease of nine years, with the long chapter of accidents beyond that period, including the chance of war, the restoration of concord, and along with it, a conviction common to all, of the utility of protection; and in consideration of it, if, in 1842, none of these contingences shall have been realized, we are willing to submit as long as congress may think proper, to a maximum rate of twenty per centum, with the power of discrimination below it, cash duties, home valuations, and a liberal list of free articles, for the benefit of the manufacturing interest. To these conditions the opponents of protection are ready to accede. The measure is what it professes to be, a compromise; but it imposes and could impose no restriction upon the will or power of a future congress. Doubtless great respect will be paid, as it ought to be paid, to the serious condition of the country that has prompted the passage of this bill. Any future congress that might disturb this adjustment, would act under a high responsibility, but it would be entirely within its competency to repeal, if it thought proper, the whole bill. It is far from the object of those who support this bill, to abandon or

surrender the policy of protecting American industry. Its protection or encouragement may be accomplished in various ways — first, by bounties, as far as they are within the constitutional power of congress to offer them; second, by prohibitions, totally excluding the foreign rival article; third, by high duties without regard to the aggregate amount of revenue which they produce; fourth, by discriminating duties so adjusted as to limit the revenue to the economical wants of government; and, fifth, by the admission of the raw material, and articles essential to manufactures, free of duty; to which may be added, cash duties, home valuations, and the regulation of auctions. A perfect system of protection would comprehend most if not all these modes of affording it. There might be at this time a prohibition of certain articles (ardent spirits and coarse cottons, for example,) to public advantage. If there were not inveterate prejudices and conflicting opinions prevailing, (and what statesman can totally disregard impediments?) such a compound system might be established.

Now, Mr. President, before the assertion is made, that the bill surrenders the protective policy, gentlemen should understand perfectly what it does not as well as what it does propose. It impairs no power of congress over the whole subject; it contains no promise or pledge whatever, express or implied, as to bounties, prohibitions, or auctions; it does not touch the power of congress in regard to them, and congress is perfectly free to exercise that

*amount of the revenue which they might yield.* During that whole period, we had a public debt which absorbed all the surpluses beyond the ordinary wants of government. Between 1816 and 1824, the revenue was liable to the greatest fluctuations, vibrating between the extremes of about nineteen and thirty-six millions of dollars. If there were more revenue, more debt was paid; if less, a smaller amount was reimbursed. Such was sometimes the deficiency of the revenue, that it became necessary to the ordinary expenses of government, to trench upon the ten millions annually set apart as a sinking fund, to extinguish the public debt. If the public debt remained undischarged, or we had any other practical mode of appropriating the surplus revenue, the form of protection, by high duties, might be continued without public detriment. It is the payment of the public debt, then, and the arrest of internal improvements by the exercise of the veto, that unsettles that specific form of protection. Nobody supposes, or proposes, that we should continue to levy, by means of high duties, a large annual surplus, of which no practical use can be made, for the sake of the incidental protection which they afford. The secretary of the treasury estimates that surplus on the existing scale of duties, and with the other sources of revenue, at six millions annually. An annual accumulation at that rate, would, in a few years, bring into the treasury the whole currency of the country, to lie there inactive and dormant.

This view of the condition of the country has impressed every public man with the necessity of some modification of the principles of protection, so far as it depends upon high duties. The senator from Massachusetts feels it; and hence, in the resolutions which he submitted, he proposes to reduce the duties, so as to limit the amount of the revenue to the wants of the government. With him revenue is the principal, protection the subordinate object. If protection cannot be enjoyed after such a reduction of duties as he thinks ought to be made, it is not to be extended. He says, specific duties and the power of discrimination, are preserved by his resolutions. So they may be under the operation of the bill. The only difference between the two schemes is, that the bill, in the maximum which it provides, suggests a certain limit, while his resolutions lay down none. Below that maximum, the principle of discrimination and specific duties may be applied. The senator from Pennsylvania, (Mr. Dallas,) who, equally with the senator from Massachusetts, is opposed to this bill, would have agreed to the bill if it had fixed thirty instead of twenty per centum; and he would have dispensed with home valuation, and come down to the revenue standard in five or six years. Now, Mr. President, I prefer, and I think the manufacturing interest will prefer, nine years of adequate protection, home valuations, and twenty per centum, to the plan of the senator from Pennsylvania.

Mr. President, I want to be perfectly understood as to the motives which have prompted me to offer this measure. I repeat what I said on the introduction of it, that they are, first, to preserve the manufacturing interest, and, secondly, to quiet the country. I believe the American system to be in the greatest danger; and I believe it can be placed on a better and safer foundation at this session than at the next. I heard with surprise, my friend from Massachusetts say, that nothing had occurred within the last six months to increase its hazard. I entreat him to review that opinion. Is it correct? Is the issue of numerous elections, including that of the highest officer of the government, nothing? Is the explicit recommendation of that officer, in his message, at the opening of the session, sustained, as he is, by a recent triumphant election, nothing? Is his declaration in his proclamation, that the burdens of the south ought to be relieved, nothing? Is the introduction of a bill into the house of representatives, during this session, sanctioned by the head of the treasury and the administration, prostrating the greater part of the manufactures of the country, nothing? Are the increasing discontents, nothing? Is the tendency of recent events to unite the whole south, nothing? What have we not witnessed in this chamber? Friends of the administration, bursting all the ties which seemed indissolubly to unite them to its chief, and, with few exceptions south of the Potomac, opposing, and vehemently

their ground, and come out open and undisguised supporters of the system. They may even find in the measure which I have brought forward, a motive for their conversion. Sir, I shall rejoice in it, from whatever cause it may proceed. And, if they can give greater strength and durability to the system, and at the same time quiet the discontents of its opponents, I shall rejoice still more. They shall not find me disposed to abandon it, because it has drawn succor from an unexpected quarter. No, Mr. President, it is not destruction, but preservation of the system at which we aim. If dangers now assail it, we have not created them. I have sustained it upon the strongest and clearest convictions of its expediency. They are entirely unaltered. Had others, who avow attachment to it, supported it with equal zeal and straightforwardness, it would be now free from embarrassment; but with them it has been a secondary interest. I utter no complaints; I make no reproaches. I wish only to defend myself now, as heretofore, against unjust assaults. I have been represented as the father of this system, and I am charged with an unnatural abandonment of my own offspring. I have never arrogated to myself any such intimate relation to it. I have, indeed, cherished it with parental fondness, and my affection is undiminished, but in what condition do I find this child? It is in the hands of the Philistines, who would strangle it. I fly to its rescue, to snatch it from their custody, and to place it on a bed of security and repose for nine years, where it may grow and strengthen, and become acceptable to the whole people. I behold a torch about being applied to a favorite edifice, and I would save it if possible before it is wrapt in flames, or at least preserve the precious furniture which it contains. I wish to see the tariff separated from the politics of the country, that business men may go to work in security, with some prospect of stability in our laws, and without every thing being staked on the issue of elections, as it were on the hazards of the die.

And the other leading object which has prompted the introduction of this measure, the tranquillizing of the country, is no less important. All wise human legislation must consult in some degree the passions and prejudices, and feelings, as well as the interests of the people. It would be vain and foolish to proceed at all times, and under all circumstances, upon the notion of absolute certainty in any system, or infallability in any dogma, and to push these out without regard to any consequences. With us, who entertain the opinion that congress is constitutionally invested with power to protect domestic industry, it is a question of mere expediency as to the form, the degree, and the time that the protection shall be afforded. In weighing all the considerations which should control and regulate the exercise of that power, we ought not to overlook what is due to those who honestly entertain opposite opinions to large masses of the community, and to deep,

ong-cherished, and growing prejudices. Perceiving, ourselves, no onstitutional impediment, we have less difficulty in accommodating ourselves to the sense of the people of the United States pon this interesting subject. I do believe that a majority of them s in favor of this policy; but I am induced to believe this almost gainst evidence. Two states in New England, which have been n favor of the system, have recently come out against it. Other tates of the north and east have shown a remarkable indifference o its preservation. If, indeed, they have wished to preserve it, hey have nevertheless placed the powers of government in hand hich ordinary information must have assured them were rather a azardous depository. With us in the west, although we are not ithout some direct and considerable indirect interest in the ystem, we have supported it more upon national than sectional rounds.

Meantime the opposition of a large and respectable section of e union, stimulated by political success, has increased, and is ncreasing. Discontents are multiplying and assuming new and angerous aspects. They have been cherished by the course and opes inspired during this administration, which, at the very oment that it threatens and recommends the use of the power of e union, proclaims aloud the injustice of the system which it ould enforce. These discontents are not limited to those who

which will be solicited, what course would every principle of honor, and every consideration of the interests of Virginia, as she understands them, exact from her? Would she not make common cause with South Carolina? and if she did, would not the entire south eventually become parties to the contest? The rest of the union might put down the south, and reduce it to submission; but, to say nothing of the uncertainty and hazards of all war, is that a desirable state of things? Ought it not to be avoided if it can be honorably prevented? I am not one of those who think that we must rely exclusively upon moral power, and never resort to physical force. I know too well the frailties and follies of man, in his collective as well as individual character, to reject in all possible cases, the employment of force; but I do think that when resorted to, especially among the members of a confederacy, it should manifestly appear to be the only remaining appeal.

But suppose the present congress terminates without any adjustment of the tariff, let us see in what condition its friends will find themselves at the next session. South Carolina will have postponed the execution of the law passed to carry into effect her ordinance, until the end of that session. All will be quiet in the south for the present. The president, in his opening message, will urge that justice, as he terms it, be done to the south; and that the burdens imposed upon it by the tariff, be removed. The whole weight of the administration, the united south, and majorities of the dominant party, in both branches of congress, will be found in active coöperation. Will the gentleman from Massachusetts tell me how we are to save the tariff against this united and irresistible force? They will accuse us of indifference to the preservation of the union, and of being willing to expose the country to the dangers of civil war. The fact of South Carolina's postponing of her ordinance, at the instance of Virginia, and once more appealing to the justice of congress, will be pressed with great emphasis and effect. It does appear to me impossible that we can prevent a most injurious modification of the tariff, at the next session, and that this is the favorable moment for an equitable arrangement of it. I have been subjected to animadversion, for the admission of the fact, that, at the next session, our opponents will be stronger, and the friends of the American system weaker than they are in this congress. But, is it not so? And is it not the duty of every man, who aspires to be a statesman, to look at naked facts as they really are? Must he suppress them? Ought he, like children, to throw the counterpane over his eyes, and persuade himself that he is secure from danger? Are not our opponents as well informed as we are, about their own strength?

If we adjourn, without any permanent settlement of the tariff, in what painful suspense and terrible uncertainty shall we not leave the manufacturers and business men of the country? All

eyes will be turned, with trembling and fear, to the next session. Operations will be circumscribed, and new enterprises checked; or, if otherwise, ruin and bankruptcy may be the consequence. I believe, sir, this measure, which offers a reasonable guarantee for permanence and stability, will be hailed by practical men with pleasure. The political manufacturers may be against it, but it will command the approbation of a large majority of the business manufacturers of the country.

But the objections of the honorable senator from Massachusetts are principally directed to the period beyond 1842. During the intermediate time, there is every reason to hope and believe that the bill secures adequate protection. All my information assures me of this; and it is demonstrated by the fact, that, if the measure of protection, secured prior to the thirty-first of December, 1841, were permanent; or if the bill were even silent beyond that period, it would command the cordial and unanimous concurrence of the friends of the policy. What then divides, what alarms us? It is what *may possibly* be the state of things in the year one thousand eight hundred and forty-two, or subsequently! Now, sir, even if that should be as bad as the most vivid imagination, or the most eloquent tongue could depict it, if we have intermediate safety and security, it does not seem to me wise to rush upon certain and present evils, because of those which, admitting their possibility,

is making, in machinery. There is a constant tendency to decrease in the price of iron and coal. The opening of new mines and new channels of communication, must continue to lower it. The successful introduction of the process of cooking, will have great effect. The price of these articles, one of the most opulent and intelligent manufacturing houses in this country assures me, is a principal cause of the present necessity of protection to the cotton interest; and that house is strongly inclined to think that twenty per centum, with the other advantages secured in this bill, may do beyond 1842. Then, sir, what effect may not convulsions and revolutions in Europe, if any should arise, produce? I am far from desiring them, that our country may profit by their occurrence. Her greatness and glory rest, I hope, upon a more solid and more generous basis. But we cannot shut our eyes to the fact, that our greatest manufacturing, as well as commercial competitor, is undergoing a momentous political experiment, the issue of which is far from being absolutely certain. Who can raise the veil of the succeeding nine years, and show what, at their termination, will be the degree of competition which Great Britain can exercise towards us in the manufacturing arts?

Suppose, in the progress of gradual descent towards the revenue standard for which this bill provides, it should some years hence become evident that further protection, beyond 1842, than that which it contemplates may be necessary, can it be doubted that, in some form or other, it will be applied? Our misfortune has been, and yet is, that the public mind has been constantly kept in a state of feverish excitement, in respect to this system of policy. Conventions, elections, congress, the public press, have been for years all acting upon the tariff, and the tariff acting upon them all. Prejudices have been excited, passions kindled, and mutual irritations carried to the highest pitch of exasperation, insomuch that good feelings have been almost extinguished, and the voice of reason and experience silenced, among the members of the confederacy. Let us separate the tariff from the agitating politics of the country, place it upon a stable and firm foundation, and allow our enterprising countrymen to demonstrate to the whole union, by their skilful and successful labors, the inappreciable value of the arts. If they can have what they have never yet enjoyed, some years of repose and tranquillity, they will make, silently, more converts to the policy, than would be made during a long period of anxious struggle and boisterous contention. Above all, I count upon the good effects resulting from a restoration of the harmony of this divided people, upon their good sense and their love of justice. Who can doubt, that when passions have subsided, and reason has resumed her empire, that there will be a disposition throughout the whole union, to render ample justice to all its parts? Who will believe that any section of this great confederacy would

look with indifference to the prostration of the interests of another section, by distant and selfish foreign nations, regardless alike of the welfare of us all? No, sir; I have no fears beyond 1842. The people of the United States are brethren, made to love and respect each other. Momentary causes may seem to alienate them, but, like family differences, they will terminate in a closer and more affectionate union than ever. And how much more estimable will be a system of protection, based on common conviction and common consent, and planted in the bosoms of all, than one wrenched by power from reluctant and protesting weakness?

That such a system will be adopted, if it should be necessary for the period of time subsequent to 1842, I will not doubt. But, in the scheme which I originally proposed, I did not rely exclusively, great as my reliance is, upon the operation of fraternal feelings, the return of reason, and a sense of justice. The scheme contained an appeal to the interests of the south. According to it, unmanufactured cotton was to be a free article after 1842. Gentlemen from that quarter have again and again asserted that they were indifferent to the duty of three cents per pound on cotton, and that they feared no foreign competition. I have thought otherwise; but I was willing, by way of experiment, to take them at their word; not that I was opposed to the protection of cotton,

of the proper measure of protection to each article which was supposed to merit it, it is not likely, that, even with the same length of time before us, we could make one more perfect. Assuming the justness of that act, the bill preserves the respective propositions for which the act provides, and subjects them all to the same equal but moderate reduction, spread over the long space of nine years. The senator from Massachusetts contends that a great part of the value of all protection, is given up by dispensing with specific duties and the principle of discrimination. But much the most valuable articles of our domestic manufactures, (cotton and woollens, for example,) have never enjoyed the advantage of specific duties. They have always been liable to ad valorem duties, with a very limited application of the minimum principle. The bill does not, however, even after 1842, surrender either mode of laying duties. Discriminations are expressly recognised below the maximum, and specific duties may also be imposed, provided they do not exceed it.

The honorable senator also contends that the bill is imperfect, and that the execution of it will be impracticable. He asks, how is the excess above twenty per centum to be ascertained on coarse and printed cottons, liable to minimums of thirty and thirty-five cents, and subject to a duty of twenty-five per centum, ad valorem; and how is it to be estimated in the case of specific duties? Sir, it is very probable that the bill is not perfect, but I do not believe that there is any thing impracticable in its execution. Much will, however, depend upon the head of the treasury department. In the instance of the cotton minimums, the statute having, by way of exception to the general ad valorem rule, declared, in certain cases, how the value shall be estimated, that statutory value ought to govern; and consequently, the twenty per centum should be exclusively deducted from the twenty-five per centum, being the rate of duties to which cottons generally are liable; and the biennial tenths should be subtracted from the excess of five per centum. With regard to specific duties, it will, perhaps, be competent to the secretary of the treasury, in the execution of the law, for the sake of certainty, to adopt some average value, founded upon importations of a previous year. But if the value of each cargo, and every part of it, is to be ascertained, it would be no more than what now is the operation in the case of woollens, silks, cottons above thirty and thirty-five cents, and a variety of other articles; and consequently there would be no more impracticability in the law.

To all defects, however, real or imaginary, which it may be supposed will arise in the execution of the principle of the bill, I oppose one conclusive, and, I hope, satisfactory answer. Congress will be in session one whole month before the commencement of the law; and if, in the meantime, omissions calling for further legislation shall be discovered, there will be more time then than

we have now to supply them. Let us, on this occasion of compromise, pursue the example of our fathers, who, under the influence of the same spirit, in the adoption of the constitution of the United States, determined to ratify it, and go for amendments afterwards.

To the argument of the senator from Massachusetts, that this interest, and that, and the other, cannot be sustained under the protection, beyond 1842, I repeat the answer, that no one can now tell what may then be necessary. That period will provide for itself. But I was surprised to hear my friend singling out iron as an article that would be most injuriously affected by the operation of this bill. If I am not greatly mistaken in my recollection, he opposed and voted against the act of 1824, because of the high duty imposed on iron. But for that duty, (and perhaps the duty on hemp,) which he then considered threw an unreasonable burden upon the navigation of the country, he would have supported that act. Of all the articles to which protecting duties are applied, iron, and the manufactures of iron, enjoy the highest protection. During the term of nine years, the deductions from the duty are not such as seriously to impair those great interests, unless all my information deceives me; and beyond that period, the remedy has been already indicated. Let me suppose that the anticipations which I form, upon the restoration of concord and confidence, shall be all falsified; that neither the cause of fraternal affection nor

opposed, in regard to the tariff; and is approved by the gentleman from South Carolina, (Mr. Calhoun,) as well as by myself. Why, sir, the gentleman has told us that he is not opposed to any compromise. Will he be pleased to say how any compromise can be effected, without a concurrence between those who had been previously divided, and taking some medium between the two extremes? The wider the division may have been, so much the better for the compromise, which ought to be judged of by its nature and by its terms, and not solely by those who happen to vote for it. It is an adjustment to which both the great interests in this country may accede without either being dishonored. The triumph of neither is complete. Each, for the sake of peace, harmony, and union, makes some concessions. The south has contended that every vestige of protection should be eradicated from the statute-book, and the revenue standard forthwith adopted. In assenting to this bill, it waives that pretension — yields to reasonable protection for nine years; and consents, in consideration of the maximum of twenty per centum, to be subsequently applied, to discriminations below it, cash duties, home valuations, and a long list of free articles. The north and west have contended for the practical application of the principle of protection, regulated by no other limit than the necessary wants of the country. If they accede to this adjustment, they agree, in consideration of the stability and certainty which nine years' duration of a favorite system of policy affords, and of the other advantages which have been enumerated, to come down in 1842 to a limit not exceeding twenty per centum. Both parties, animated by a desire to avert the evils which might flow from carrying out into all their consequences the cherished system of either, have met upon common ground, made mutual and friendly concessions, and, I trust, and sincerely believe, that neither will have, hereafter, occasion to regret, as neither can justly reproach the other with what may be now done.

This, or some other measure of conciliation, is now more than ever necessary, since the passage, through the senate, of the enforcing bill. To that bill, if I had been present, on the final vote, I should have given my assent, although with great reluctance. I believe this government not only possessed of the constitutional power, but to be bound by every consideration, to maintain the authority of the laws. But I deeply regretted the necessity which seemed to me to require the passage of such a bill. And I was far from being without serious apprehensions as to the consequences to which it might lead. I felt no new-born zeal in favor of the present administration, of which I now think as I have always thought. I could not vote against the measure; I would not speak in its behalf. I thought it most proper in me to leave to the friends of the administration and to others, who might feel themselves

particularly called upon, to defend and sustain a strong measure of the administration. With respect to the series of acts to which the executive has resorted, in relation to our southern disturbance, this is not a fit occasion to enter upon a full consideration of them; but I will briefly say, that, although the proclamation is a paper of uncommon ability and eloquence, doing great credit, as a composition, to him who prepared it, and to him who signed it, I think it contains some ultra doctrines, which no party in this country had ventured to assert. With these are mixed up many sound principles and just views of our political systems. If it is to be judged by its effects upon those to whom it was more immediately addressed, it must be admitted to have been ill-timed and unfortunate. Instead of allaying the excitement which prevailed, it increased the exasperation in the infected district, and afforded new and unnecessary causes of discontent and dissatisfaction in the south generally. The message, subsequently transmitted to congress, communicating the proceedings of South Carolina, and calling for countervailing enactments, was characterized with more prudence and moderation. And, if this unhappy contest is to continue, I sincerely hope, that the future conduct of the administration may be governed by wise and cautious counsels, and a parental forbearance. But when the highest degree of animosity exists; when both parties, however unequal, have arrayed themselves for the conflict; who can tell when, by the indiscretion of

There are some who say, let the tariff go down; let our manufactures be prostrated, if such be the pleasure, at another session, of those to whose hands the government of this country is confided; let bankruptcy and ruin be spread over the land; and let resistance to the laws, at all hazards, be subdued. Sir, they take counsel from their passions. They anticipate a terrible reaction from the downfall of the tariff, which would ultimately reëstablish it upon a firmer basis than ever. But it is these very agitations, these mutual irritations between brethren of the same family, it is the individual distress and general ruin that would necessarily follow the overthrow of the tariff, that ought, if possible, to be prevented. Besides, are we certain of this reaction? Have we not been disappointed in it as to other measures heretofore? But suppose, after a long and embittered struggle, it should come, in what relative condition would it find the parts of this confederacy? In what state our ruined manufactures? When they should be laid low, who, amidst the fragments of the general wreck, scattered over the face of the land, would have courage to engage in fresh enterprises, under a new pledge of the violated faith of the government? If we adjourn, without passing this bill, having intrusted the executive with vast powers to maintain the laws, should he be able by the next session to put down all opposition to them, will he not, as a necessary consequence of success, have more power than ever to put down the tariff also? Has he not said that the south is oppressed, and its burdens ought to be relieved? And will he not feel himself bound, after he shall have triumphed, if triumph he may in a civil war, to appease the discontents of the south by a modification of the tariff, in conformity with its wishes and demands? No, sir; no, sir; let us save the country from the most dreadful of all calamities, and let us save its industry, too, from threatened destruction. Statesmen should regulate their conduct and adapt their measures to the exigences of the times in which they live. They cannot, indeed, transcend the limits of the constitutional rule; but with respect to those systems of policy which fall within its scope, they should arrange them according to the interests, the wants, and the prejudices of the people. Two great dangers threaten the public safety. The true patriot will not stop to inquire how they have been brought about, but will fly to the deliverance of his country. The difference between the friends and the foes of the compromise, under consideration, is, that they would, in the enforcing act, send forth alone a flaming sword. We would send out that also, but along with it the olive branch, as a messenger of peace. They cry out, the law! the law! the law! Power! power! power! We, too, reverence the law, and bow to the supremacy of its obligation; but we are in favor of the law executed in mildness, and of power tempered with mercy. They, as we think, would hazard a civil commotion, beginning in South Carolina and

xtending, God only knows where. While we would vindicate he federal government, we are for peace, if possible, union, and iberty. We want no war, above all, no civil war, no family trife. We want to see no sacked cities, no desolated fields, no moking ruins, no streams of American blood shed by American rms!

I have been accused of ambition in presenting this measure. Ambition! inordinate ambition! If I had thought of myself only, should have never brought it forward. I know well the perils to which I expose myself; the risk of alienating faithful and valued riends, with but little prospect of making new ones, if any new nes could compensate for the loss of those whom we have long ried and loved; and the honest misconceptions both of friends and oes. Ambition! If I had listened to its soft and seducing whispers; if I had yielded myself to the dictates of a cold, calcuating, and prudential policy, I would have stood still and unmoved. might even have silently gazed on the raging storm, enjoyed its oudest thunders, and left those who are charged with the care of he vessel of state, to conduct it as they could. I have been eretofore often unjustly accused of ambition. Low, grovelling ouls, who are utterly incapable of elevating themselves to the igher and nobler duties of pure patriotism — beings, who, for ever eeping their own selfish aims in view, decide all public measures

# IN SUPPORT OF THE COMPROMISE ACT.

IN THE SENATE, MARCH 1, 1833.

[THE bill for modifying the duties on imports, as passed by the house of representatives, (in effect, Mr. Clay's bill,) being under consideration, and on its passage, a brief discussion took place, between Messrs. Calhoun, Mangum, Frelinghuysen, Sprague, and others, in favor of the bill, and Messrs. Webster, Dallas, Robbins, and others, in opposition.]

MR. CLAY then said a few words in reference to this bill and the enforcing bill, both of which he considered that it was necessary to send forth, as well to show that the laws must be executed, as that there is a disposition to make concessions. He stated, that on the subject of the government's being a compact, he principally agreed with the senator from South Carolina, but with some difference as to the character of the right conferred by that compact. He did not adopt the opinion, that there had been any advance made in usurpation of powers by the general government. He then went into a view of the history of this system, to show, that twelve or thirteen years ago, there was no opposition raised against the power of congress to protect domestic industry. The opposition on constitutional grounds had subsequently grown up. He then stated, that in his opinion no state could so practically construe the constitution as to nullify the laws of the United States, without plunging the country into all the miseries of anarchy. He said that he adhered to the doctrines of that ablest, wisest, and purest of American statesmen, James Madison, who still lives, and resides in Virginia — the doctrines which were advanced by him in 1799. The answer of that distinguished man to the resolutions of the other states, and his address to the people, effected a sudden revolution of public opinion. The people rallied around him; the alien and sedition laws were repealed; and the usurpations of the general government were arrested. He viewed the government as federative in its origin, in its character, and in its operation, and under the clause of the constitution which gives to congress power to pass all laws to carry into effect the granted powers, they could pass all necessary laws. He hoped that the effect of this bill would conciliate all classes and all sections of the union.

He did not arrogate any merit for the passage of this bill. He ıad cherished this system as a favorite child, and he still clung to t, and should still cling to it. Why had he been reproached? He ıad come to the child and found it in the hands of the Philistines, vho were desirous to destroy it. He wished to save and cherish t, and to find for it better and safer nurses. He did not wish to ·mploy the sword, but to effect his object by concession and onciliation. He wished to see the system placed on a securer ›asis, to plant it in the bosoms and affections of the people. The ;entleman from Pennsylvania, who had learned his views of the ystem from the senator from South Carolina, had spoken of him .s the pilot who was directing the vessel. If it was so, he would .sk if she had been secured by a faithful crew? If all had been aithful, he believed there would have been no danger in assailing he system. He assailed no one; he merely defended himself ıgainst the reproaches of others.

Another motive with him was to preserve the union. He feared ıe saw hands uplifted to destroy the system; he saw the union ndangered; and in spite of all peril which might assail himself, ıe had determined to stand forward and attempt the rescue.

He felt himself pained exceedingly in being obliged to separate ›n the question, from valued friends, especially from his friend from Massachusetts, whom he had always respected, and whom he still

# ON THE PRESIDENT'S MESSAGE, RETURNING THE PUBLIC LAND BILL.

## IN THE SENATE OF THE UNITED STATES, DECEMBER 5, 1833.

[THE bill to distribute the proceeds of the public lands, introduced by Mr. Clay, passed both houses of congress on the first of March, 1832, one day before the adjournment, and the term of the twenty-second congress expired on Sunday, the third of March, 1832. The majorities were so large in favor of the bill, that it was believed if the president had immediately returned the bill with his objections, on the second of March, it would have been passed by the constitutional majority of two thirds of the members present in each house, and thus have become a law, notwithstanding the objections of president Jackson. But the president adopted the unprecedented course of retaining the bill until the next session of congress. In December, 1833, the twenty-third congress assembled, and the president sent a message to the senate, returning the land bill which had been passed by the previous congress, with his objections to the same, and stating that for want of time he had not pursued the usual course. The message of the president, assigning his reasons for the return of the bill, having been read, Mr. Clay rose and made the following remarks.]

THIS measure had been first introduced into congress at the session before the last, under circumstances which must be within the recollection of every member of the senate. Its object was, to dispose of the proceeds of the public lands for a limited time. The subject had been greatly discussed not only in congress, but throughout the country. The principles and provisions of the bill were well and generally understood. The subject had attracted the attention of the chief magistrate himself, and this bill was made the subject of commentary in his message at the commencement of the last session of congress. It must, therefore, be considered as a subject perfectly well understood by the president, for it was not to be supposed that he would have commented upon it, and recommended it to the attention of congress, if it had not been understood. During the last session, this bill, which had previously been before the house, was introduced in this body, and was passed, and sent to the other house, whence it was returned with a slight amendment, taking away the discretion which had been vested in the state legislatures as to the disposal of the proceeds. This bill, which had been before congress the session before the last, which had passed at the last session, having been before the country for a

hole year, when it passed the two houses, was placed before e executive, with a number of other measures, just before the ose of the last congress. As the subject had been before the resident for consideration so long previously to the passage of the ill, and he had reflected upon it, it was not to have been expected at he would take advantage of the shortness of the session to tain the bill until this time. Yet such had been the fact, and a roceeding had taken place which was unprecedented and alarming, nd which, unless the people of this country were lost to all sense f what was due to the legislative branch of the government, to emselves, and to those principles of liberty which had been transitted to them from the revolution, they would not tolerate. It was least due to the legislature, that the president should have sent few lines, courteously informing them, that when his own ind was made up he would communicate the result. But, ithout deigning to make known his intention, or to impart the asons which influenced him, he despotically kept silence, and tained the bill. He begged leave to congratulate the senate on e return of the bill. The question which now presented itself as, whether the bill was dead, in consequence of the non-action f the president, or whether it had become an existing law. He as not now about to discuss that question; but he had felt himself lled on to make a few observations on the extraordinary course, d to say that it was due to congress, to the people, and to the

cation. But he (Mr. Clay) stood here to sustain his own course, to vindicate the constitution, and to vindicate the rights of congress under it. And he must repeat, that the withholding of the land bill, at the last session, under the circumstances of the case, was a violation of the constitution, and disrespectful to the senate. What were the circumstances?

At two different sessions of congress, the land subject was before it. At that which preceded the last, a bill had been introduced to distribute among the states the proceeds of the public lands. The whole subject, by the bill and by reports of committees, was laid before congress and spread before the country. A copy of the bill, when it was first introduced, according to the constant practice of congress, was sent to the president. He was thus, as well as the country generally, put in entire possession of the matter. It attracted great public attention. It engaged that of the president. And, accordingly, at the commencement of the last session, in his annual message, he adverted to it, in a manner which evidently showed that the writer of the message fully understood it, and all the views which had been developed about it.

[Here Mr. Clay read the message of the last session, so far as it related to the public lands, to show that the president had himself invited the attention of congress to it, as one of urgent and pressing importance; that the *discretion* of congress to make any disposition of the public lands, which they might deem best for the harmony, union, and interest of the United States, was uncontrolled; that the question ought *speedily* to be settled; and that the president had *considered*, but objected to the bill of the previous session, proposing, as a substitute, a plan of his own, which, while the message on the table argued that the public lands belonged to *all* the states, proposed to give the unsold lands to *some* of them.]

Thus was congress, at the commencement of the last session, officially invited to act, and to act speedily, respecting the public lands; and thus did the president manifest his knowledge of the provisions of the bill of the previous session. Well, sir, congress again took up the question. The identical bill of the previous session was again introduced, and again, prior to its passage, placed before the president, along with the other printed documents, according to standing usage. And it was passed by both houses, substantially in the shape in which at the previous session it was passed by the senate, except that the restriction as to the power of the states to apply the sum to be distributed among the several states, after the deduction of the twelve and a half per centum first set apart for the new states, was stricken out.

In this form, the bill was laid before the president on the second day of March last. It was no stranger, but an old acquaintance. He had seen it repeatedly before; and he must have been well informed as to its progress in congress. He had commented on the very project contained in the bill, when he had brought forward his own in his message, at the opening of the session. Without deigning to communicate to congress what disposition he had made,

r meant to make of it, he permitted the body to rise, in utter igno-
ance of his intentions.

It may be true, that there was a great press of business on the
president on the second of March, and that he may have acted upon
ome ninety or one hundred bills. But this is what occurs with
very president on the day before the termination of the short
ession of congress. With most of those bills the president must
ave been less acquainted than he was with the land bill. Of
ome of them he probably had never heard at all. Not one of them
ossessed the importance of the land bill. How did it happen that
he president could find time to decide on so many new bills, and
et had not time to examine and dispose of one which had long
een before him and the public; one embracing a subject which he
hought the union, harmony, and interests of the states required
hould be *speedily* adjusted; one which he himself had pronounced
is judgment upon at the commencement of the session? By
withholding the bill, the president took upon himself a responsi-
bility beyond the exercise of the veto. He deprived congress
ltogether of its constitutional right to act upon the bill, and to pass
t, his negative notwithstanding.

The president is, by the constitution, secured time to consider
bills which shall have passed both branches of congress. But so
s congress equally secured the right to act upon bills which they
have passed, and which the president may have thought proper to

# ON THE REMOVAL OF THE PUBLIC DEPOSITS FROM THE BANK OF THE UNITED STATES.

## IN THE UNITED STATES SENATE, DECEMBER 26, 1833.

[THE house of representatives, on the second of March, 1833, adopted, by a vote of one hundred and ten to forty-six, the following resolution: 'that the government deposits may, in the opinion of the house, be safely continued in the bank of the United States.' Notwithstanding this resolution, the president of the United States, (general Jackson,) in September following, read a paper to his cabinet, declaring his intention to cause the deposits to be removed from the bank. He then removed the secretary of the treasury, Mr. Duane, from office, in consequence of his refusal to comply with the president's orders in this respect, and appointed Mr. Taney secretary in his place; who removed the deposits from the United States bank, on the first of October, 1833, and placed them in sundry state banks. At the ensuing session of congress, the secretary of the treasury, Mr. Taney, having made his report on that transaction, the subject came up for consideration in the senate, when Mr. Clay submitted the following resolutions, which he accompanied with the subjoined speech.]

RESOLVED, that by dismissing the late secretary of the treasury, because he would not, contrary to his sense of his own duty, remove the money of the United States in deposit with the bank of the United States and its branches, in conformity with the president's opinion; and by appointing his successor to effect such removal, which has been done, the president has assumed the exercise of a power over the treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people.

Resolved, that the reasons assigned by the secretary of the treasury for the removal of the money of the United States, deposited in the bank of the United States and its branches, communicated to congress on the third of December, 1833, are unsatisfactory and insufficient.

WE are in the midst of a revolution, hitherto bloodless, but rapidly tending towards a total change of the pure republican character of the government, and to the concentration of all power in the hands of one man. The powers of congress are paralysed, except when exerted in conformity with his will, by frequent and an extraordinary exercise of the executive veto, not anticipated by the founders of our constitution, and not practiced by any of the predecessors of the present chief magistrate. And, to cramp them still more, a new expedient is springing into use, of withholding

altogether bills which have received the sanction of both houses of congress, thereby cutting off all opportunity of passing them, even if, after their return, the members should be unanimous in their favor. The constitutional participation of the senate in the appointing power is virtually abolished by the constant use of the power of removal from office, without any known cause, and by the appointment of the same individual to the same office, after his rejection by the senate. How often have we, senators, felt that the check of the senate, instead of being, as the constitution intended, a salutary control, was an idle ceremony? How often, when acting on the case of the nominated successor, have we felt the injustice of the removal? How often have we said to each other, well, what can we do? the office cannot remain vacant, without prejudice to the public interest, and, if we reject the proposed substitute, we cannot restore the displaced; and, perhaps, some more unworthy man may be nominated.

The judiciary has not been exempt from the prevailing rage for innovation. Decisions of the tribunals, deliberately pronounced, have been contemptuously disregarded. And the sanctity of numerous treaties openly violated. Our Indian relations, coeval with the existence of the government, and recognised and established by numerous laws and treaties, have been subverted, the rights of the helpless and unfortunate aborigines trampled in the

into the senate the same unabated spirit, and the same firm determination which have ever guided me in the support of civil liberty, and the defence of our constitution, I contemplate the prospect before us with feelings of deep humiliation and profound mortification.

It is not among the least unfortunate symptoms of the times, that a large portion of the good and enlightened men of the union, of all parties, are yielding to sentiments of despondency. There is, unhappily, a feeling of distrust and insecurity pervading the community. Many of our best citizens entertain serious apprehensions, that our union and our institutions are destined to a speedy overthrow. Sir, I trust that the hopes and confidence of the country will revive. There is much occasion for manly independence and patriotic vigor, but none for despair. Thank God, we are yet free; and, if we put on the chains which are forging for us, it will be because we deserve to wear them. We should never despair of the republic. If our ancestors had been capable of surrendering themselves to such ignoble sentiments, our independence and our liberties would never have been achieved. The winter of 1776–7 was one of the gloomiest periods of the revolution; but on *this day*, fifty-seven years ago, the father of his country achieved a glorious victory, which diffused joy and gladness and animation throughout the states. Let us cherish the hope that, since he has gone from among us, Providence, in the dispensation of his mercies, has near at hand in reserve for us, though yet unseen by us, some sure and happy deliverance from all impending dangers.

When we assembled here last year, we were full of dreadful forebodings. On the one hand we were menaced with a civil war, which, lighting up in a single state, might spread its flames throughout one of the largest sections of the union. On the other, a cherished system of policy, essential to the successful prosecution of the industry of our countrymen, was exposed to imminent danger of immediate destruction. Means were happily applied by congress to avert both calamities; the country was reconciled, and our union once more became a band of friends and brothers. And I shall be greatly disappointed, if we do not find those who were denounced as being unfriendly to the continuance of our confederacy, among the foremost to fly to its preservation, and to resist all executive encroachment.

Mr. President, when congress adjourned, at the termination of the last session, there was one remnant of its powers, that over the purse, left untouched. The two most important powers of civil government are, those of the sword and the purse. The first, with some restriction, is confided by the constitution to the executive, and the last to the legislative department. If they are separate, and exercised by different responsible departments, civil liberty is safe;

but if they are united in the hands of the same individual, it is gone. That clear-sighted and sagacious revolutionary orator and patriot, Patrick Henry, justly said, in the Virginia convention, in reply to one of his opponents:

'Let him candidly tell me where and when did freedom exist, when the sword and purse were given up from the people? Unless a miracle in human affairs interposed, no nation ever retained its liberty after the loss of the sword and the purse? Can you prove by any argumentative deduction, that it is possible to be safe without one of them? If you give them up you are gone.'

Up to the period of the termination of the last session of congress, the exclusive constitutional power of congress over the treasury of the United States had never been contested. Among its earliest acts was one to establish the treasury department, which provided for the appointment of a treasurer, who was required to give bond and security in a very large amount, 'to receive and keep the moneys of the United States and to disburse the same, upon warrants drawn by the secretary of the treasury, countersigned by the comptroller, recorded by the register, *and not otherwise*.' Prior to the establishment of the present bank of the United States, no treasury or place had been provided and designated by law for the safe-keeping of the public moneys, but the treasurer was left to his own discretion and responsibility. When the existing bank was established, it was provided

our solemn duty to inquire, first, by whose authority it has been ordered? and, secondly, whether the order has been given in conformity with the constitution and laws of the United States?

I agree, sir, and I am happy whenever I can agree with the president, as to the immense importance of these questions. He says, in a paper which I hold in my hand, that he looks upon the pending question as involving higher considerations than the 'mere transfer of a sum of money from one bank to another. Its decision may affect the character of our government for ages to come.' And, with him, I view it as of transcendent importance, both in its consequences and the great principles which the question involves. In the view which I have taken of this subject, I hold the bank as nothing, as perfectly insignificant, faithful as it has been in the performance of all its duties, efficient as it has proved in regulating the currency, than which there is none in all christendom so sound, and deep as is the interest of the country in the establishment and continuance of a sound currency, and the avoidance of all those evils which result from a defective or unsettled currency. All these I regard as questions of no importance, in comparison with the principles involved in this executive innovation. It involves the distribution of power by the executive, and the taking away a power from congress which it was never before doubted to possess — the power over the public purse. Entertaining these views, I shall not, to-day, at least, examine the reasons assigned by the president, or by the secretary of the treasury; for if the president had no power to perform the act, no reasons, however cogent or strong, which he can assign as urging him to the accomplishment of his purpose, no reasons, can sanctify an unconstitutional and illegal act.

The first question, sir, which I intimated it to be my purpose to examine, was, by whose direction was this change of the deposits made?

Now, sir, is there any man who hears me, who requires proof on this point? Is there an intelligent man in the whole country who does not know who it was that decided on the removal of the deposits? Is it not of universal notoriety? Does any man doubt that it was the act of the president? That it was done by his authority and at his command? The president, on this subject, has himself furnished evidence which is perfectly conclusive, in the paper which he has read to his cabinet; for, although he has denied to the senate an official copy of that paper, it is universally admitted that he has given it to the world, as containing the reasons which influenced him to this act. As a part of the people, if not in our senatorial character, we have a right to avail ourselves of that paper, and of all which it contains. Is it not perfectly conclusive as to the authority by which the deposits have been removed? I admit that it is an unprecedented and most extraordinary power.

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ask, is there a member of this senate,
in the whole country, who doubts on
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'The president deems it HIS duty, to commun
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and so forth.

Under these convictions, he feels that a measure so important to the American people cannot be commenced too soon; *and* HE *therefore names the first day of October next* as a period proper for the change of the deposits, or sooner, provided the necessary arrangements with the state banks can be made.'

Sir, is there a senator here who will tell me that this removal was not made by the president? I know, indeed, that there are in this document many of those most mild, most gracious, most condescending expressions, with which power too well knows how to clothe its mandates. The president coaxes, he soothes the secretary, in the most bland and conciliating language:

'In the remarks he has made on this all-important question, he *trusts* the secretary of the treasury will see only the frank and *respectful* declarations of the opinions which the president has formed on a measure of great national interest, deeply affecting the character and usefulness of his administration; and *not a spirit of dictation*, which the president would be as *careful to avoid*, as ready to resist. Happy will he be, if the facts now disclosed produce uniformity of opinion and unity of action among the members of the administration.'

Sir, how kind! how gentle! How very gracious must this have sounded in the gratified ear of the secretary of the treasury! Sir, it reminds me of an historical anecdote, related of one of the most remarkable characters which our species has ever produced. While Oliver Cromwell was contending for the mastery of Great Britain, or Ireland, (I do not now remember which,) he besieged a certain catholic town. The place made a stout resistance; but at length the town being likely to be taken, the poor catholics proposed terms of capitulation, stipulating therein for the toleration of their religion. The paper containing the terms was brought to Oliver, who, putting on his spectacles to read it, cried out, 'oh, granted, granted, certainly;' he added, however, 'but if one of them shall dare to be found attending mass, he shall be hanged;' (under what section is not mentioned; whether under a second, or any other section, of any particular law, we are not told.)

Thus, sir, the secretary was told by the president, that he had not the slightest wish to dictate — oh, no; nothing is further from the president's intention; but, sir, what was he told in the sequel? 'If you do not comply with my wishes — if you do not effect the removal of these deposits within the period I assign you — you must quit your office.' And what, sir, was the effect? This document bears date on the eighteenth of September. In the official paper, published at the seat of government, and through which it is understood that the government makes known its wishes and purposes to the people of the United States, we were told, under date of the twentieth of September, 1833, two days only after this cabinet paper was read, as follows:

'We are authorized to state' — [*authorized;* this is the word which gave credit to this annunciation —] 'We are authorized to state, that the deposits of the public money will be changed from the bank of the United States to the state banks, as soon

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'I feel constrained to notify you, that you
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party; I mean Mr. Duane. After gi
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passed antecedently to his removal, h

'Thus was I thrust into office; thus was I
neglected any duty; not because I had differed
States; but because I refused, without furthe
deposits.'

And now, sir, having seen that the removal was made by the command and authority of the president, I shall proceed to inquire whether it was done in conformity with the constitution and laws of the United States.

I do not purpose at this time to go into the reasons alleged by the president or his secretary, except so far as those reasons contain an attempt to show that he possessed the requisite authority. Because if the president of the United States had no power to do this thing — if the constitution and laws, instead of authorizing it, required him to keep his hands off the treasury — it is useless to inquire into any reasons he may give for exercising a power which he did not possess. Sir, what power has the president of the United States over the treasury? Is it in the charter establishing the bank? The clause of the charter relating to the public deposits declares,

'That the deposits of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the secretary of the treasury shall at any time otherwise order and direct; in which case the secretary of the treasury shall immediately lay before congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction.'

This is in strict consonance with the act creating the treasury department in 1789. The secretary of the treasury is by that act constituted the agent of congress; he is required to report to congress annually the state of the finances, and his plans respecting them; and if congress in either of its branches shall require it, he is to report at any time on any particular branch of the fiscal concerns of the country. He is the agent of congress to watch over the safety of the national deposits; and if, from any peculiar circumstances, the removal of them shall be required, he is to report the fact — to whom? to the president? No, sir; he must report to congress, together with his reasons therefor. By the charter of the bank, the president of the United States is clothed with two powers respecting it, and two only. By one of its clauses he is authorized to nominate, and by and with the consent of the senate, to appoint the government directors, and to remove them, by the other clause he is empowered to issue a *scire facias* when he shall apprehend that the charter of the institution has been violated. These, I say, are the only powers given him by the charter; all others are denied to him, and are given to others. The bank is not bound to report the state of its affairs to him, but to the secretary of the treasury; and it is thus to report whenever he shall call upon it for information; but when it becomes necessary to go further, a committee of congress is authorized to examine the books of the bank, and to look into the whole state of its affairs, and to report, not to the president, but to congress, who appointed them.

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constitution. The laws, however, have appointed but three executive departments; and it is true, that the secretaries are often required by law to act in certain cases according to the directions of the president. *So far* it is admitted that they have been, by the law, (not by the constitution,) placed under the direction of the president. Yet, even as to the state department, there are duties devolving upon the secretary over which the president has no control; and for the non-performance of which that officer is responsible, not to the president, but to the legislative tribunals or to the courts of justice. This is no new opinion. The supreme court, in the case of Marbury and Madison, expressed it in the following terms:

'By the constitution of the United States, the president is invested with certain important political powers, in the exercise of which, he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority, and in conformity to his orders.

* * * * * * *

'In such cases, their acts are his acts; and whatever opinion may be entertained of the manner in which executive discretion may be used, still there exists, and can exist, no power to control that discretion. The subjects are political. They respect the nation, not individual rights, and being intrusted to the executive, the decision of the executive is conclusive. The application of this remark will be perceived by adverting to the act of congress for establishing the department of foreign affairs. This officer, as his duties were prescribed by that act, is to conform precisely to the will of the president. He is the mere organ by whom that will is communicated. The acts of such an officer, as an officer, can never be examined by the courts.

'But when the legislature proceeds to impose on that officer other duties; when he is directed peremptorily to perform certain acts, (that is, when he is not placed under the direction of the president,) when the rights of individuals are dependent on the performance of those acts, he is so far *the officer of the law;* is amenable *to the laws* for his conduct; and cannot at his discretion sport away the vested rights of others.

'The conclusion from this reasoning is, that where the heads of departments are the political or confidential agents of the executive, merely to execute the will of the president, or rather to act in cases in which the executive possesses a constitutional or legal discretion, nothing can be more perfectly clear than that their acts are only politically examinable. But where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured, has a right to resort to the laws of his country for a remedy.'

Though the president is mistaken in his assertion, that the constitution devolves upon the president the superintendence of the departments, there is one clause of that instrument which he has very correctly quoted, and which makes it his duty to 'see that the laws are faithfully executed,' as it is mine now to examine what authority he obtains by this clause in the case before us. Under it, the most enormous pretensions have been set up for the president.

It has been contended, that if a law shall pass which the president does not conceive to be in conformity with the constitution, he is not bound to execute it; and if a treaty shall have been made, which, in his opinion, has been unconstitutional in its stipulations, he is not bound to enforce them. And it necessarily follows, that,

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must end in swallowing up all the rest. Nor will the judicial power be any longer restrained by the restraining clauses in the constitution, which relate to its exercise. What then, it will be asked, does this clause, that the president shall see that the laws are faithfully executed, mean? Sir, it means nothing more nor less than this, that if resistance is made to the laws, he shall take care that resistance shall cease. Congress, by the first article of the eighth section of the constitution, is required to provide for calling out the militia to execute the laws, in case of resistance. Sir, it might as well be contended under that clause, that congress have the power of determining what are, and what are not, the laws of the land. Congress has the power of calling out the military; well, sir, what is the president, by the constitution? He is commander of the army and navy of the United States, and of the militia when called out into actual service. When, then, we are here told that he is clothed with the whole physical power of the nation, and when we are afterwards told, that he must take care that the laws are faithfully executed, is it possible that any man can be so lost to the love of liberty, as not to admit that this goes no further than to remove any resistance which may be made to the execution of the laws? We have established a system in which power has been carefully divided among different departments of the government. And we have been told a thousand times, that this division is indispensable as a safeguard to civil liberty. We have designated the departments, and have established in each, officers to examine the power belonging to each. The president, it is true, presides over the whole; his eye surveys the whole extent of the system in all its movements. But has he power to enter into the courts, for example, and tell them what is to be done? Or may he come here, and tell us the same? Or when we have made a law, can he withhold the power necessary to its practical effect? He moves, it is true, in a high, a glorious sphere. It is his to watch over the whole with a paternal eye; and, when any one wheel of the vast machine is for a time interrupted by the occurrence of invasion or rebellion, it is his care to propel its movements, and to furnish it with the requisite means of performing its appropriate duty in its own place.

That this is the true interpretation of the constitutional clause to which I have alluded, is inferred from the total silence of all contemporaneous expositions of that instrument on the subject. I have myself, (and when it was not in my power personally, have caused others to aid me,) made researches into the numbers of the Federalist, the debates in the Virginia convention, and in the conventions of other states, as well as all other sources of information to which I could obtain access, and I have not, in a solitary instance, found the slightest color for the claims set up in these most extraordinary times for the president, that he has authority to afford

or withhold at pleasure the means of enforcing the laws, and to superintend and control an officer charged with a specific duty, made by the law exclusively his. But, sir, I have found some authorities which strongly militate against any such claim. If the doctrine be indeed true, then it is most evident that there is no longer any other control over our affairs, than that exerted by the president. If it be true, that when a duty is by law specifically assigned to a particular officer, the president may go into his office and control him in the manner of performing it, then is it most manifest that all barriers for the safety of the treasury are gone. Sir, it is that union of the purse and the sword, in the hand of one man, which constitutes the best definition of tyranny which our language can give.

The charter of the bank of the United States requires that the public deposits be made in its vaults. It also gives the secretary of the treasury power to remove them — and why? The secretary is at the head of the finances of the government. Weekly reports are made by the bank to him. He is to report to congress annually; and to either house whenever he should be called upon. He is the sentinel of congress — the agent of congress — the representative of congress. Congress has prescribed and has defined his duties. He is required to report to them, not to the president. He is put there by us, as our representative; he is

him what the secretary of the treasury ought to do. He might as well have consulted the secretary of the treasury about a contemplated movement of the army, as to ask the secretary of war about the disposition of the public moneys. It was not to the president, and all his secretaries combined, that the power was given to alter the disposition of the deposits in the bank. It was to the secretary alone, exclusive of the president, and all other officers of government. And according to gentlemen's own showing, by their construction of the clause, the secretary ought to have been left to his own unbiased determination, uncontrolled by the president or any body else.

I would thank the secretary of the senate to get me the sedition law. It is not very certain how soon we may be called to act upon it.

Now, sir, let us trace some of the other sources of the exercise of this power, or motives for it, or by whatever other name they are to be called. He says to Mr. Duane:

'The president repeats, that he begs the cabinet to consider the proposed measure as his own, in the support of which he shall require no one of them to make a sacrifice of opinion or principle. Its responsibility has been assumed, after the most mature deliberation and reflection. as necessary to preserve the morals of the people, the freedom of the press, and the purity of the elective franchise.'

The morals of the people! What part of the constitution has given to the president any power over 'the morals of the people?' None. It does not give such power even over religion, the presiding and genial influence over every true system of morals. No, sir, it gives him no such power.

And what is the next step? To-day he claims a power as necessary to the morals of the people; to-morrow he will claim another, as still more indispensable to our religion. And the president might in this case as well have said that he went into the office of the secretary of the treasury, and controlled his free exercise of his authority as secretary, because it was necessary to preserve 'the religion of the people!' I ask for the authority. Will any one of those gentlemen here, who consider themselves as the vindicators of the executive, point me to any clause of the constitution which gives to the *present* president of the United States any power to preserve 'the morals of the people?'

But 'the freedom of the press,' it seems, was another motive. Sir, I am not surprised that the present secretary of the treasury should feel a desire to revive this power over the press. He, I think, was a member of that party which passed the sedition law, under precisely the same pretext. I recollect it was said, that this bank, this monster of tyranny, was taking into its pay a countless number of papers, and by this means was destroying the fair fame of the president and his secretary, and all that sort of thing. Sir,

t is sometimes useful to refer back to those old things — to the notions and the motives which induced men in former times to do certain acts which may not be altogether unlike some others in our own time.

The famous sedition act was passed, sir, in 1789; and it contained, among others, the following provision:

'Section 2. That if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall, knowingly and willingly, assist or aid in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing or writings, against the government of the United States, or either house of the congress of the United States, or the president of the United States, with intent to defame the said government, or either house of the said congress, or the said president, or to bring them, or either of them, into contempt or disrepute; or to excite against them, or either of them, the hatred of the good people of the United States, or to stir up sedition within the United States; or to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the president of the United States, done in pursuance of any such law, or of the powers in him vested by the constitution of the United States; or to resist, oppose, or defeat, any such law or act; or to aid, encourage, or abet, any hostile designs of any foreign nation, against the United States, their people, or government, then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.'

We have now, sir, in the reasons for the removal of the government deposits, the same motives avowed and acted upon. The abuse of the government, bringing it into disrepute, using con-

But 'the purity of the elective franchise,' also, the president has very much at heart. And here, again, I ask what part of the constitution gives him any power over that 'franchise?' Look, sir, at the nature of the exercise of this power! If it was really necessary that steps should be taken to preserve the purity of the press or the freedom of elections, what ought the president to have done? Taken the matter into his own hands? No, sir; it was his duty to recommend to congress the passage of laws for the purpose, under suitable sanctions; laws which the courts of the United States could execute. We could not have been worse off under such laws, (however exceptionable they might be,) than we are now. We could then, sir, have reviewed the laws, and seen whether congress or the president had properly any power over this matter; or whether the article of the constitution which forbids that the press shall be touched, and declares that religion shall be sacred from all the powers of legislation, applied in the case or not. This the president has undertaken to do of himself, without the shadow of authority, either in the constitution or the laws.

Suppose, sir, that this contumacious institution, which committed the great sin, in 1829, of not appointing a new president to a certain one of its branches — suppose that the bank should go on and vindicate itself against the calumnies poured out upon it — that it should continue to stand upon its defence; how inefficient will have been the exercise of power by the president! How inadequate to the end he had in view, of preserving the press from being made use of to defend the bank! Why, sir, if we had had the power, and the president had come to us, we could have laid Mr. Nicholas Biddle by the heels, if he should have undertaken to publish another report of general Smith or Mr. Duffie, or another speech of the eloquent gentleman near me, (Mr. Webster,) or any other such *libels*, tending to bring the president or his administration into disrepute. But the president of the United States, who thought he had the bank in his power, who thought he could stop it, who was induced to believe, by that 'influence behind the throne, greater than itself,' that he could break down the bank at a word, has only shown his want of power over the press, by his attempt to exercise it in the manner he has done. The bank has avowed and openly declared its purpose to defend itself on all suitable occasions. And, what is still more provoking, instead of being a bankrupt, as was expected, with its doors closed, and its vaults inaccessible, it has now, it seems, got more money than it knows what to do with; and this greatest of misers and hoarders, cruelly refuses to let out a dollar of its ten millions of specie, to relieve the sufferings of the banks to which the government deposits have been transferred.

Sir, the president of the United States had nothing to do with the morals of the community. No, sir; for the preservation of our

of those concerns which admitted of
ment; that its abuses must be tolera
abridged. Such, sir, is the freedom
our constitution, and so it has been
of the obnoxious act which I have a
able principles of that law have bee
in his assumption of a power, in no
preserving the purity of the press.

Such, sir, are the powers on v
justify his seizure of the treasu
have examined them one by one; a
bear out the act. We are irresistib
that the removal of the public money
States has been effected by the displ
treasury department of one who w
putting in his stead another perso
that the president has no color of a
the laws for the act which he has un

Let us now, for a few moment
which may ensue from the exercise
the president has authority, in a case
a specific duty exclusively to a des
exercise of his discretion by that off
in every other case, and remove ev
tates to do his bidding, against his
This, surely, is a logical deduction n
how stands the matter? Recapitula
prescribing how money should be dr
deduction above stated, what is t
going to the comptroller, and, if
warrant which he has found an acc
turning him out for another; then g

said, 'I make this measure my own, I take upon myself the responsibility,' from that moment the public treasury might as well have been at the hermitage as at this place. Sir, the measure adopted by the president is without precedent — in our day at best. There is, indeed, a precedent on record, but you must go down to the christian era for it. It will be recollected, by those who are conversant with ancient history, that after Pompey was compelled to retire to Brundusium, Cæsar, who had been anxious to give him battle, returned to Rome, 'having reduced Italy, (says the historian,) in sixty days, (the exact period, sir, between the removal of the deposits, and the meeting of congress, without the usual allowance of three days' grace,) without bloodshed.' The historian goes on; 'finding the city in a more settled condition than he expected, and many senators there, he addressed them in a mild and gracious manner, (as the president addressed his late secretary of the treasury,) and desired them to send deputies to Pompey with an offer of honorable terms of peace. As Metellus, the tribune, *opposed his* taking money out of the public treasury, and cited some laws against it, (such, sir, I suppose, as I have endeavored to cite on this occasion,) Cæsar said, 'arms and laws do not flourish together. If you are not pleased with what I am about, you have only to withdraw. (Leave the office, Mr. Duane!) War, indeed, will not tolerate much liberty of speech. When I say this, I am renouncing my own right; for you, and all those whom I have found exciting a spirit of faction against me, are at my disposal.' Having said this, he approached the doors of the treasury, and as the keys were not produced, he sent for workmen to break them open. Metellus again opposed him, and gained credit with some for his firmness; but Cæsar, with an elevated voice, threatened to put him to death, if he gave any further trouble. 'And you know very well, young man,' said he, 'that this is harder for me to say than to do.' Metellus, terrified by the measure, retired, and Cæsar was afterward easily and readily supplied with every thing necessary for the war.

And where now, sir, is the public treasury? Who can tell? It is certainly without a local habitation, if it be not without a name. And where is the money of the people of the United States? Floating about in treasury drafts or checks to the amount of millions, placed in the hands of tottering banks, to enable them to pay their own debts, instead of being appropriated to the service of the people. These checks are scattered to the winds by the treasurer of the United States, who is required by law to let out money from the treasury, on warrants signed by the secretary of the treasury, countersigned, registered, and so forth, and not otherwise.

[Mr. Clay here referred to a correspondence, which he quoted. between the treasurer and the officers of the bank, complaining of these checks drawn without

Where was the oath of office of t
thus to sport with the people's mo
tution, which forbids money to be dr
appropriation by law? Where was
thus cast about the people's mone
I do not pretend to any great knowl
an intelligent and unpacked jury, ar
that he has forfeited the penalty of h

Mr. President, the people of the U
president for the boldness of this m
the humblest of them, I profess my
told the senate, in his message re
cabinet paper, that it has been publis
people. As a part of the people, the
character, have a right to its use. I
has proclaimed, that the measure
*taken* upon himself the responsibilit
has proclaimed an open, palpable, an

For more than fifteen years, Mr. Pr
to avoid the present state of things.
proceedings, during the conduct of
defiance to the constitution and to a
and truth, with what earnestness a
I have struggled, the searcher of a
With what fortune, the bleeding co
fatally attests.

I have, nevertheless, persevered; a
ment, during the short time that I ex
councils, I will persevere. And if a
allow an unworthy sinner to approac
beseech Him, as the greatest favor He
to spare me until I live to behold the

[Here Mr. Clay, who was understood to have gone through the first part of his speech only, gave way, and Mr. Ewing of Ohio moved that the further consideration of the subject be postponed until Monday next; which was ordered accordingly. And then the senate adjourned to that day. December 30, Mr. Clay resumed his speech.]

Before I proceed to a consideration of the report of the secretary of the treasury, and the second resolution, I wish to anticipate and answer an objection, which may be made to the adoption of the first. It may be urged, that the senate, being, in a certain contingency, a court of impeachment, ought not to prejudge a question which it may be called upon to decide judicially. But by the constitution the senate has three characters, legislative, executive, and judicial. Its ordinary, and by far its most important character, is that of its being a component part of the legislative department. Only three or four cases, since the establishment of the government, (that is, during a period of nearly half a century,) have occurred, in which it was necessary that the senate should act as a judicial tribunal, the least important of all its characters. Now it would be most strange if, when its constitutional powers were assailed, it could not assert and vindicate them, because, by possibility, it might be required to act as a court of justice. The first resolution asserts only, that the president has assumed the exercise of a power over the public treasury not granted by the constitution and laws. It is silent as to motive; and without the *quo animo* — the deliberate purpose of usurpation — the president would not be liable to impeachment. But if a concurrence of all the elements be necessary to make out a charge of wilful violation of the constitution, does any one believe that the president will now be impeached? And shall we silently sit by and see ourselves stripped of one of the most essential of our legislative powers, and the exercise of it assumed by the president, to which it is not delegated, without effort to maintain it, because, against all human probability, he may be hereafter impeached?

The report of the secretary of the treasury, in the first paragraph, commences with a misstatement of the fact. He says, '*I have directed*' that the deposits of the money of the United States shall not be made in the bank of the United States. If this assertion is regarded in any other than a mere formal sense, it is not true. The secretary may have been the instrument, the clerk, the automaton, in whose name the order was issued; but the measure was that of the president, by whose authority or command the order was given; and of this we have the highest and most authentic evidence. The president has told the world that the measure was his own, and that he took it upon his own responsibility. And he has exonerated his cabinet from all responsibility about it. The secretary ought to have frankly disclosed all the circumstances of the case, and told the truth, the whole truth, and nothing but the

ruth. If he had done so, he would have informed congress, that the removal had been decided by the president on the eighteenth of September last; that it had been announced to the public on the twentieth; and that Mr. Duane remained in office until the twenty-third. He would have informed congress, that this important measure was decided before he entered into his new office, and was the cause of his appointment. Yes, sir, the present secretary stood by, a witness to the struggle in the mind of his predecessor, between his attachment to the president and his duty to the country; saw him dismissed from office, because he would not violate his conscientious obligations, and came into his place, to do what he could not, honorably, and would not perform. A son of one of the fathers of democracy, by an administration professing to be democratic, was expelled from office, and his place supplied by a gentleman, who, throughout his whole career, has been uniformly opposed to democracy! — a gentleman who, at another epoch of the republic, when it was threatened with civil war, and a dissolution of the union, voted, (although a resident of a slave state,) in the legislature of Maryland, against the admission of Missouri into the union without a restriction incompatible with her rights as a member of the confederacy!* Mr. Duane was dismissed because the solemn convictions of his duty would not allow him to conform to the president's will; because his logic did not bring his mind to the

ought to have stated that the cabinet was divided two and two, and one of the members equally divided with himself on the question, willing to be put into either scale. He ought to have given a full account of this, the most important act of executive authority since the origin of the government; he should have stated with what unsullied honor his predecessor retired from office, and on what degrading conditions he accepted his vacant place. When a momentous proceeding like this, varying the constitutional distribution of the powers of the legislative and executive departments, was resolved on, the ministers against whose advice it was determined, should have resigned their stations. No ministers of any monarch in Europe, under similar circumstances, would have retained the seals of office. And if, as nobody doubts, there is a cabal behind the curtain, without character and without responsibility, feeding the passions, stimulating the prejudices, and moulding the actions of the incumbent of the presidential office, it was an additional reason for their resignations. There is not a *maitre d'hotel* in christendom, who, if the scullions were put into command in the parlor and dining-room, would not scorn to hold his place, and fling it up in disgust with indignant pride!

I shall examine the report before us, first, as to the power of the secretary over the deposits; secondly, his reasons for the exercise of it; and, thirdly, the manner of its exercise.

First. The secretary asserts that the power of removal is *exclusively* reserved to him; that it is *absolute* and *unconditional*, so far as the interests of the bank are concerned; that it is not restricted to any particular contingencies; that the reservation of the power to the secretary of the treasury exclusively, is a part of the compact; that he may exercise it, if the public convenience or interest would *in any degree* be promoted; that this exclusive power, thus reserved, is so absolute, that the secretary is not restrained by the considerations that the public deposits in the bank are perfectly safe; that the bank promptly meets *all* demands upon it; and that it faithfully performs all its duties; and that the power of congress, on the contrary, is so totally excluded, that it could not, without a breach of the compact, order the deposits to be changed, even if congress were satisfied that they were not safe, or should be convinced that the interests of the people of the United States imperiously demanded the removal.

Such is the statement which this unassuming secretary makes of his own authority. He expands his own power to the most extravagant dimensions; and he undertakes to circumscribe that of congress in the narrowest and most restricted limits! Who would have expected that, after having so confidently maintained for himself such absolute, exclusive, unqualified, and uncontrollable power, he would have let in any body else to share with him its exercise? Yet he says, 'as the secretary of the treasury presides over one of

the *executive* departments of the government, and *his* power over this subject forms a part of the executive duties of his office, the manner in which it is exercised must be subject to the supervision of the officer,' (meaning the president, whose official name his modesty would not allow him to pronounce,) 'to whom the constitution has confided the whole executive power, and has required to take care that the laws be faithfully executed.' If the clause in the compact exclusively vests the power of removal in the secretary of the treasury, what has the president to do with it? What part of the charter conveys to him any power? If, as the secretary contends, the clause of removal, being part of the compact, restricts its exercise to the secretary, to the entire exclusion of congress, how does it embrace the president? especially since both the president and secretary conceive, that 'the power over the place of deposit for the public money would seem properly to belong to the legislative department of the government?' If the secretary be correct in asserting that the power of removal is confined to the secretary of the treasury, then Mr. Duane, while in office, possessed it; and his dismission, because he would not exercise a power which belonged to him exclusively, was itself a violation of the charter.

But by what authority does the secretary assert that the treasury department is one of the executive departments of the government?

The premises of the secretary are only partially correct, and the conclusion is directly repugnant to law. It never was the duty of the *secretary* to take care that the public money was deposited in safe-keeping, in the hands of faithful agents, and so forth. That duty is expressly, by the act organizing the department, assigned to the treasurer of the United States, who is placed under oath, and under bond, with a large penalty, not to issue a dollar out of the public treasury, but in virtue of warrants granted in pursuance of acts of appropriation, 'and not otherwise.' When the secretary treats of the power of the president, he puts on corsets and prostrates himself before the executive, in the most graceful, courteous, and lady-like form; but when he treats of that of congress, and of the treasurer, he swells and expands himself, and flirts about, with all the airs of high authority.

But I cannot assent to the secretary's interpretation of his power of removal, contained in the charter. Congress has not given up its control over the treasury, or the public deposits, to either the secretary or the executive. Congress could not have done so without a treacherous renunciation of its constitutional powers, and a faithless abandonment of its duties. And now let us see what is the true state of the matter. Congress has reserved to itself, exclusively, the right to judge of the reasons for removal of the deposits, by requiring the report of them to be made to it; and, consequently, the power to ratify or invalidate the act. The secretary of the treasury is the fiscal sentinel of congress, to whom the bank makes weekly reports, and who is presumed constantly to be well acquainted with its actual condition. He may, consequently, discover the urgent necessity of prompt action, to save the public treasure, before it is known to congress, and when it is not in session. But he is immediately to report — to whom? To the executive? No, to congress. For what purpose? That congress may sanction or disprove the act.

The power of removal is a reservation for the benefit of the people, not of the bank. It may be waived. Congress, being a legislative party to the compact, did not thereby deprive itself of ordinary powers of legislation. It cannot, without a breach of the national faith, repeal privileges or stipulations intended for the benefit of the bank. But it may repeal, modify, or waive the exercise altogether, of those parts of the charter which were intended exclusively for the public. Could not congress repeal altogether the clause of removal? Such a repeal would not injure, but add to, the security of the bank. Could not congress modify the clause, by revoking the agency of the secretary of the treasury, and substituting that of the treasurer, or any other officer of government? Could not congress, at any time during the twenty years' duration of the charter, abolish altogether the office of secretary of the treasury, and assign all his present duties to some newly constituted

department? The right and the security of the bank do not consist in the form of the agency, nor in the name of the agent, but in this: that, whatever may be its form or his denomination, the removal shall only be made upon urgent and satisfactory reasons. The power of supplemental legislation was exercised by congress both under the new and old bank. Three years after the establishment of the existing bank, an act passed, better to regulate the election of directors, and to punish any one who should attempt, by bribes, or presents in any form, to influence the operation of the institution.

The denial of the secretary, to congress, of the power to remove the deposits, under any circumstances, is most extraordinary. Why, sir, suppose a corrupt collusion between the secretary and the bank, to divide the spoils of the treasury? Suppose a total nonfulfilment of all the stipulations on the part of the bank? Is congress to remain bound and tied, whilst the bank should be free from all the obligations of the charter? The obligation of one party, to observe faithfully his stipulations, in a contract, rests upon the corresponding obligation of the other party to observe his stipulations. If one party is released, both are free. If one party fails to comply with his contract, *that* releases the other. This is the fundamental principle of all contracts, applicable to treaties, charters, and private agreements. If it were a mere private agreement, and one party who had bound himself to deposit, from time to time, his money with the other, to be redrawn at his pleasure, saw

contracts. It is true, that the language of the clause of removal, in the charter, is general, but it is not, therefore, to be torn from the context. It is a part only of an entire compact, and is so to be interpreted, in connection with every part and with the whole. Upon surveying the entire compact, we perceive that the bank has come under various duties to the public; has undertaken to perform important financial operations of the government; and has paid a bonus into the public treasury of a million and a half of dollars. We perceive, that, in consideration of the assumption of these heavy engagements, and the payment of that large sum of money on the part of the bank, the public has stipulated that the public deposits shall remain with the bank, during the continuation of the charter, and that its notes shall be received by the government, in payment of all debts, dues, and taxes. Except the corporate character conferred, there is none but those two stipulations of any great importance to the bank. Each of the two parties to the compact must stand bound to the performance of his engagements, whilst the other is honestly and faithfully fulfilling *his*. It is not to be conceived, in the formation of the compact, that either party could have anticipated that, whilst he was fairly and honestly executing every obligation which he had contracted, the other party might arbitrarily or capriciously exonerate himself from the discharge of his obligations. Suppose, when citizens of the United States were invited by the government to subscribe to the stock of this bank, that they had been told, that, although the bank performs all its covenants with perfect fidelity, the secretary of the treasury may, arbitrarily or capriciously, upon his speculative notions of any degree of public interest or convenience to be advanced, withdraw the public deposits; would they have ever subscribed? Would they have been guilty of the folly of binding themselves to the performance of burdensome duties, whilst the government was left at liberty to violate at pleasure that stipulation of the compact which by far was the most essential to them?

On this part of the subject, I conclude, that congress has not parted from, but retains, its legitimate power over the deposits; that it might modify or repeal altogether the clause of removal in the charter; that a breach of material stipulations on the part of the bank would authorize congress to change the place of the deposits; that a corrupt collusion to defraud the public, between the bank and a secretary of the treasury, would be a clear justification to congress to direct a transfer of the public deposits; that the secretary of the treasury is the mere agent of congress, in respect to the deposits, acting in subordination to his principal; that it results from the nature of all agency that it may be revoked, unless otherwise expressly provided; and, finally, that the principal, and much less the agent, of one party cannot justly or lawfully violate the compact, or any of its essential provisions, whilst the

other party is in the progressive and faithful performance of all his engagements.

If I am right in this view of the subject, there is an end of the argument. There was perfect equality and reciprocity between the two parties to the compact. Neither could exonerate himself from the performance of his obligations, while the other was honestly proceeding fairly to fulfil all his engagements. But the secretary of the treasury *concedes* that the public deposits were perfectly safe in the hands of the bank; that the bank promptly met every demand upon it; and that it faithfully performed all its duties. By these concessions, he surrenders the whole argument, admits the complete obligation of the public to perform its part of the compact, and demonstrates that no reasons, however plausible or strong, can justify an open breach of a solemn national compact.

Secondly. But he has brought forward various reasons to palliate or justify his violation of the national faith; and it is now my purpose to proceed, in the second place, to examine and consider them. Before I proceed to do this, I hope to be allowed again to call the attention of the senate to the nature of the office of secretary of the treasury. It is altogether financial and administrative. His duties relate to the finances, their condition and improvement, and to them exclusively. The act creating the treasury department, and defining the duties of the secretary, demonstrates this. He has

half years, instead of twenty? Was the urgency for the removal of the deposits so great, that he could not wait sixty days, until the assembling of congress? He admits that they were perfectly safe in the bank; that it promptly met every demand upon it; and that it faithfully performed all its duties. Why not, then, wait the arrival of congress? The last time the house of representatives had spoken, among the very last acts of the last session, that house had declared its full confidence in the safety of the deposits. Why not wait until it could review the subject, with all the new light which the secretary could throw upon it, and it again proclaims its opinion? He comes into office on the twenty-third of September, 1833, and in three days, with intuitive celerity, he comprehends the whole of the operations of the complex department of the treasury, perceives that the government, from its origin, had been in uniform error, and denounces the opinions of all his predecessors! And, hastening to rectify universal wrong, in defiance and in contempt of the resolution of the house, he signs an order for the removal of the deposits! It was of no consequence to him, whether places of safety, in substitution of the bank of the United States, could be obtained or not; without making the essential precautionary arrangements, he commands the removal almost instantly to be made.

Why, sir, if the secretary were right in contending that he alone could order the removal, even he admits that congress has power to provide for the security of the public money, in the new places to which it might be transferred. If he did not deign to consult the representatives of the people as to the propriety of the first step, did not a decent respect to their authority and judgment exact from him a delay, for the brief term of sixty days, that they might consider what was fitting to be done? The truth is, that the secretary, by law, has nothing to do with the care and safe-keeping of the public money. As has been already shown, that duty is specifically assigned by law to the treasurer of the United States. And, in assuming upon himself the authority to provide other depositories than the bank of the United States, he alike trampled upon the duties of the treasurer, and what was due to congress Can any one doubt the motive of this precipitancy? Does anybody doubt, that it was to preclude the action of congress, or to bring it under the influence of the executive veto? Let the two houses, or either of them, perform their duty to the country, and we shall hereafter see whether, in that respect, at least, Mr. Secretary will not fail to consummate his purpose.

Second. The next reason assigned for this offensive proceeding, is the reëlection of the present chief magistrate. The secretary says:

'I have always regarded the result of the last election of president of the United States, as the declaration of a majority of the people, that the charter ought not to be renewed.' * * * 'Its voluntary application to congress for the renewal of its

charter four years before it expired, and upon the eve of the election of president, was *understood on all sides* as bringing forward that question for incidental decision at the then approaching election. It was accordingly argued on both sides before the tribunal of the people, and their verdict pronounced against the bank,' and so forth.

What has the secretary to do with elections? Do they belong to the financial concerns of his department? Why this constant reference to the result of the last presidential election? Ought not the president to be content with the triumphant issue of it? Did he want still more vetoes? The winners ought to forbear making any complaints, and be satisfied, whatever the losers may be. After an election is fairly terminated, I have always thought that the best way was to forget all the incidents of the preceding canvass, and especially the manner in which votes had been cast. If one has been successful, that ought to be sufficient for him; if defeated, regrets are unavailing. Our fellow-citizens have a right freely to exercise their elective franchise as they please, and no one, certainly no candidate, has any right to complain about it.

But the argument of the secretary is, that the question of the bank was fully submitted to the people, by the consent of all parties, fully discussed before them, and their verdict pronounced against the institution, in the reëlection of the president. His statement of the case requires that we should examine carefully the various messages of the president, to ascertain whether the bank question was fairly and frankly, (to use a favorite expression of the

'*If* such an institution is deemed essential to the fiscal operations of the government, I submit to the wisdom of the legislature whether *a national one*, founded upon the *credit* of the government, and its resources, might not be devised.'

Here, again, the president, so far from expressing an explicit opinion against all national banks, makes a hypothetical admission of the utility of a bank, and distinctly intimates the practicability of devising one on the basis of the credit and resources of the government.

In his message of 1830, speaking of the bank, the president says:

'Nothing has occurred to lessen, in any degree, the dangers which *many of our citizens* apprehend from that institution, *as at present organized*. In the spirit of improvement and compromise, which distinguishes our country and its institutions, it becomes us to inquire whether it be not *possible* to secure the advantages afforded by the present bank through the agency of a bank of the United States, so modified in its principles and structure, *as* to obviate constitutional and other objections.'

Here, again, the president recites the apprehensions of 'many of our citizens,' rather than avows his own opinion. He admits, indeed, 'the advantages afforded by the present bank,' but suggests an inquiry whether it be possible, (of course doubting,) to secure them by a bank differently constructed. And towards the conclusion of that part of the message, his language fully justifies the implication, that it was not to the bank itself, but to 'its present form,' that he objected.

The message of 1831, when treating of the bank, was very brief. The president says:

'Entertaining the opinions heretofore expressed in relation to the bank of the United States, *as at present organized*,' (noncommittal once more: and what *that* means, Mr. President, nobody better knows than *you* and I,) 'I felt it my duty, in my former messages, *frankly to disclose them*.'

*Frank* disclosures! Now, sir, I recollect perfectly well the impressions made on my mind, and on those of other senators with whom I conversed, immediately after the message was read We thought and said to each other, the president has left a door open to pass out. It is not the bank; it is not *any* bank of the United States to which he is opposed, but it is to the particular organization of the existing bank. And we all concluded that, if amendments could be made to the charter satisfactory to the president, he would approve a bill for its renewal.

We come now to the famous message of July, 1832, negativing the bill to recharter the bank. Here, it may be expected, we shall certainly find clear opinions, unequivocally expressed. The president cannot elude the question. He must now be perfectly *frank*. We shall presently see. He says:

'A bank of the United States is, in *many* respects, convenient to the government, and useful to the people. Entertaining this *opinion*, and deeply impressed with the

elief that *some* of the powers and privileges possessed by the existing bank, are nauthorized by the constitution,' and so forth. * * * 'I felt it my duty, an early period of my administration, to call the attention of congress to the prac- cability of *organizing an institution*, combining all its advantages, and obviating these ojections. I sincerely regret, that in the act before me I can perceive none of *those odifications*,' and so forth. * * * 'That a bank of the United States, ompetent to all the duties which may be required by the government, might be so rganized as not to infringe on our own delegated powers, or the reserved rights of the ates, I do not entertain *a doubt*. Had the executive been called on to furnish *the roject of such an institution*, the duty would have been cheerfully performed.'

The message is principally employed in discussing the objec- ons which the president entertained to the particular provisions of he charter, and not to the bank itself; such as the right of oreigners to hold stock in it; its exemption from state taxation; its apacity to hold real estate, and so forth, and so forth. Does the resident, even in this message, array himself in opposition to any ank of the United States? Does he even oppose himself to the xisting bank under every organization of which it is susceptible? On the contrary, does he not declare that he does not entertain *a loubt* that a bank may be constitutionally organized? Does he ot even rebuke congress for not calling on him to furnish a project f a bank, which he would have cheerfully supplied? Is it not airly deducible, from the message, that the charter of the present ank might have been so amended as to have secured the resident's approbation to the institution? So far was the message

opinion, in opposition to the present or any other bank of the United States, was frankly and fairly stated to the people, prior to the late election, was fully understood, and finally decided by them.

Accordingly, in the canvass which ensued, it was boldly asserted by the partisans of the president, that he was not opposed to a bank of the United States, nor to the existing bank with proper amendments. They maintained, at least, wherever those friendly to a national bank were in the majority, that the reëlection would be followed by a recharter of the bank, with proper amendments. They dwelt, it is true, with great earnestness, upon his objections to the pernicious influence of foreigners in holding stock in it; but they nevertheless contended that these objections would be cured, if he was reëlected, and the bank sustained. I appeal to the whole senate, to my colleagues, to the people of Kentucky, and especially to the citizens of the city of Louisville, for the correctness of this statement.

After all this, was it anticipated by the people of the United States, that, in the reëlection of the president, they were deciding against an institution of such vital importance? Could they have imagined, that, after an express adjournment of the whole matter to a new congress, by the president himself, he would have prejudged the action of this new congress, and pronounced that a question, expressly by himself referred to its authority, was previously settled by the people? He claimed no such result in his message, immediately after the reëlection; although in it he denounced the bank as an unsafe depository of the public money, and invited congress to investigate its condition. The president, then, and the secretary of the treasury, are without all color of justification for their assertions, that the question of bank or no bank was fully and fairly submitted to the people, and a decision pronounced against it by them.

Sir, I am surprised and alarmed at the new source of executive power, which is found in the result of a presidential election. I had supposed that the constitution and the laws were the sole source of executive authority; that the constitution could only be amended in the mode which it has itself prescribed; that the issue of a presidential election, was merely to place the chief magistrate in the post assigned to him; and that he had neither more nor less power, in consequence of the election, than the constitution defines and delegates. But it seems that if, prior to an election, certain opinions, no matter how ambiguously put forth by a candidate, are known to the people, these loose opinions, in virtue of the election, incorporate themselves with the constitution, and afterwards are to be regarded and expounded as parts of the instrument

Third. The public money ought not, the secretary thinks, to remain in the bank until the last moment of the existence of the charter. But that was not the question which he had to decide on

the twenty-sixth of September last. The real question then was, could he not wait sixty days for the meeting of congress? There were many *last* moments, nearly two years and a half, between the twenty-sixth of September and the day of the expiration of the charter. But why not let the public money remain in the bank until the last day of the charter? It is a part of the charter, that it shall so remain; and congress having so ordered it, the secretary ought to have acquiesced in the will of congress, unless the exigency had arisen on which alone it was supposed his power over the deposits would be exercised. The secretary is greatly mistaken, in believing that the bank will be less secure in the last hours of its existence than previously. It will then be collecting its resources, with a view to the immediate payment of its notes, and the ultimate division among the stockholders of their capital; and at no period of its existence will it be so strong and able to pay all demands upon it. As to the depreciation in the value of its notes in the interior, at that time, why, sir, is the secretary possessed of the least knowledge of the course of the trade of the interior, and especially of the western states? If he had any, he could not have made such a suggestion. When the bank itself is not drawing, its notes form the best medium of remittance from the interior to the Atlantic capitals. They are sought after by merchants and traders with avidity, are never below par, and in the absence of bank drafts may

been administered; from the participation of the government in its affairs; from its advantageous location; from its being the place of deposit of the public moneys, and its notes being receivable in all payments to the government; and from its being emphatically *the bank of the United States.* This latter circumstance arranges it with the bank of England. France, Amsterdam, Genoa, and so forth.

Fifth. The expansion and contraction of the accommodations of the bank to its individual customers, are held up by the secretary, in bold relief, as evidences of misconduct, which justified his withdrawal of the deposits. He represents the bank as endeavoring to operate on the public, by alternate bribery and oppression, with the same object in both cases, of influencing the election, or the administration of the president. Why this perpetual reference of all the operations of the institution to the executive? Why does the executive think of nothing but itself? It is I! It is I! It is I, that is meant! appears to be the constant exclamation. Christianity and charity enjoin us never to ascribe a bad motive if we can suppose a good one. The bank is a moneyed corporation, whose profits result from its business; if that be extensive, it makes better; if limited, less profit. Its interest is to make the greatest amount of dividends which it can safely. And all its actions may be more certainly ascribed to that than any other principle. The administration must have a poor opinion of the virtue and intelligence of the people of the United States, if it supposes that their judgments are to be warped, and their opinions controlled by any scale of graduated bank accommodations. The bank must have a still poorer conception of its duty to the stockholder, if it were to regulate its issues by the uncertain and speculative standard of political effect, rather than a positive arithmetical rule for the computation of interest.

As to the alleged extension of the business of the bank, it has been again and again satisfactorily accounted for by the payment of the public debt, and the withdrawal from Europe of considerable sums, which threw into its vaults a large amount of funds, which, to be productive, must be employed; and, as the commercial wants proceeding from extraordinary activity of business, created great demands about the same period for bank accommodations, the institution naturally enlarged its transactions. It would have been treacherous to the best interests of its constituents if it had not done so. The recent contraction of its business is the result of an obvious cause. Notwithstanding the confidence in it, manifested by one of the last acts of the last house of representatives, congress had scarcely left the district before measures were put in operation to circumvent its authority. Denunciations and threats were put forth against it. Rumors, stamped with but too much authority, were circulated, of the intention of the executive to disregard the

admonition of the house of representatives. An agent was sent out — *and then such an agent* — to sound the local institutions as to the terms on which they would receive the deposits. Was the bank, who could not be ignorant of all this, to sit carelessly by, without taking any precautionary measures? The prudent mariner, when he sees the coming storm, furls his sails, and prepares for all its rage. The bank knew that the executive was in open hostility to it, and that it had nothing to expect from its forbearance. It had numerous points to defend, the strength or weakness of all of which was well known from its weekly returns to the secretary, and it could not possibly know at which the first mortal stroke would be aimed. If, on the twentieth of September last, instead of the manifesto of the president against the bank, he had officially announced, that he did not mean to make war upon the bank, and intended to allow the public deposits to remain until the pleasure of congress was expressed, public confidence would have been assured and unshaken, the business of the country continued in quiet and prosperity, and the numerous bankruptcies in our commercial cities averted. The wisdom of human actions is better known in their results than at their inception. That of the bank is manifest from all that has happened, and especially from its actual condition of perfect security.

Sixth. The secretary complains of misconduct of the bank in

our popular assemblies. The president, speaker, chairman, moderator, almost uniformly appoints committees. That none of the government directors have been on the committee of exchange, has proceeded, it is to be presumed, from their not being entitled, from their skill and experience, and standing in society, to be put there. The government directors stand upon the same equal footing with those appointed by the stockholders. When appointed, they are thrown into the mass, and must take their fair chances with their colleagues. If the president of the United States will nominate men of high character and credit, of known experience and knowledge in business, they will, no doubt, be placed in corresponding stations. If he appoints different men, he cannot expect it. Banks are exactly the places where currency and value are well understood, and duly estimated. A piece of coin, having even the stamp of the government, will not pass, unless the metal is pure.

Seventh. The French bill forms another topic of great complaint with the secretary. The state of the case is, that the government sold to the bank a bill on that of France for nine hundred thousand dollars, which the bank sold in London, whence it was sent by the purchaser to Paris to receive the amount. When the bank purchased the bill, it paid the amount to the government, or, which is the same thing, passed it to the credit of the treasury, to be used on demand. The bill was protested in Paris, and the agents of the bank, to avoid its being liable to damages, took up the bill on account of the bank. The bill being dishonored, the bank comes back on the drawer, and demands the customary damages due according to the course of all such transactions. The complaint of the secretary is, that the bank took up the bill to save its own credit, and that it did not do it on account of the government; in other words, that the bank did not advance at Paris nine hundred thousand dollars to the government on account of a bill which it had already paid, every dollar, at Philadelphia. Why, sir, has the secretary read the charter? If he has, he must have known that the bank could not have *advanced* the nine hundred thousand dollars for the government at Paris, without subjecting itself to a penalty of three times the amount, (two million and seven hundred thousand dollars.) The thirteenth section of the charter is express and positive:

'That if the said corporation shall *advance* or lend any sum of money for *the use or on account* of the government of the United States, to an amount exceeding five hundred thousand dollars, all persons concerned in making such unlawful advances or loan, shall forfeit treble the amount, one fifth to the informer,' and so forth.

Eighth. The last reason which I shall notice of the secretary is, that this ambitious corporation aspires to possess political power. Those in the actual possession of power, especially when they have grossly abused it, are perpetually dreading its loss. The miser does not cling to his treasure with a more death-like grasp. Their

suspicions are always active and on the alert. In every form they behold a rival, and every breeze comes charged with alarm and dread. A thousand spectres glide before their affrighted imaginations, and they see, in every attempt to enlighten those who have placed them in office, a sinister design to snatch from them their authority. On what other principles can we account for the extravagant charges brought forward by the secretary against the bank? More groundless and reckless assertions than those which he has allowed himself to embody in his report, never were presented to a deceived, insulted, and outraged people. Suffer me, sir, to group some of them. He asserts, 'that there is *sufficient evidence to prove* that the bank has used its means to obtain political power;' that, in the presidential election, 'the bank took an open and direct interest, demonstrating that it was using its money for the purpose of obtaining a hold upon the people of this country;' that it 'entered the political arena;' that it circulated publications containing 'attacks on the officers of government;' that 'it is now openly in the field as a political partisan;' that there are '*positive proofs*' of the efforts of the bank to obtain power. And, finally, he concludes, as a demonstrated proposition:

'Fourthly, that there is sufficient evidence to show that the bank has been and still is seeking to obtain political power, and has used its money for the purpose of influencing the election of the public servants.'

treasury with power to interpose himself between the people, and light and intelligence? Who gave him the right to dictate what information should be communicated to the people and by whom? Whence does he derive his jurisdiction? Who made him censor of the public press? From what new sedition law does he deduce his authority? Is the superintendence of the American press a part of the financial duty of a secretary of the treasury? Why did he not lay the whole case before congress, and invite the revival of the old sedition law? Why anticipate the arrival of their session? Why usurp the authority of the only department of government competent to apply a remedy, if there be any power to abridge the freedom of the press? If the secretary wishes to purify the press, he has a most Herculean duty before him. And when he sallies out on his quixotic expedition, he had better begin with the Augean stable, the press nearest to him, his organ, as most needing purification.

I have done with the secretary's reasons. They have been weighed and found wanting. There was not only no financial motive for his acting — the sole motive which he could officially entertain — but every financial consideration forbade him to act. I proceed now, in the third and last place, to examine the manner in which he has exercised his power over the deposits.

Thirdly. The whole people of the United States derive an interest from the public deposits in the bank of the United States, as a stockholder, in that institution. The bank is enabled, through its branches, to throw capital into those parts of the union where it is most needed. Thus it distributes and equalizes the advantages accruing from the collection of a large public revenue, and the consequent public deposits. Thus it neutralizes the injustice which would otherwise flow from the people of the west and the interior's paying their full proportion of the public burdens, without deriving any corresponding benefit from the circulation and deposits of the public revenue. The use of the capital of the bank has been signally beneficial to the west. We there want capital, domestic, foreign—any capital that we can honestly get. We want it to stimulate enterprise, to give activity to business, and to develope the vast resources which the bounty of Nature has concentrated in that region. But, by the secretary's financial arrangements, the twenty-five or thirty millions of the public revenue collected from all the people of the United States, (including those of the west,) will be retained in a few Atlantic ports. Each port will engross the public moneys there collected. And, as that of New York collects about one half of the public revenue, all the people of the United States will be laid under contribution, not for the sake of the people of the city of New York, but of two or three banks in that city, in which the people of the United States, collectively, have not a particle of interest; banks, the stock in which is or may be held by foreigners.

Three months have elapsed, and the secretary has not yet found places of deposit for the public moneys, as substitutes for the bank of the United States. He tells us, in his report of yesterday, that the bank at Charleston, to which he applied for their reception, declined the custody, and that he has yet found no other bank willing to assume it. But he states that the public interest does not in consequence suffer. No! What is done with the public moneys constantly receiving in the important port of Charleston, the largest port, (New Orleans excepted,) from the Potomac to the Gulf of Mexico? What with the revenue bonds? It appears that he has not yet received the charters from all the banks selected as places of deposit. Can any thing be more improvident than that the secretary should undertake to contract with banks, without knowing their power and capacity to contract by their charters? That he should venture to deposit the people's money in banks, without a full knowledge of every thing respecting their actual condition? But he has found some banks willing to receive the public deposits, and he has entered into contracts with them. And the very first step he has taken has been in direct violation of an express and positive statute of the United States. By the act of the first of May, 1820, section sixth, it is enacted:

'That no contract shall hereafter be made by the secretary of state, or of the treasury, or of the department of war, or of the navy, except under a law authorizing

dispense with the express duties of the treasurer of the United States, defined in a positive statute; and *yet a fifth*, to repeal a positive statute of congress, passed four years after the passage of the law containing the present source of this most extraordinary chain of implications. The exceptions in the act of 1820, prove the inflexibility of the rule which it prescribes. Annual appropriations are made for the clothing and subsistence of the army and navy. These appropriations might have been supposed to be included in a power to contract for those articles, notwithstanding the prohibitory clause in that act. But congress thought otherwise, and therefore expressly provided for the exceptions. It must be admitted that our clerk, (as the late governor Robinson, of Louisiana, one of the purest republicans I have ever known, used to call a secretary of the treasury,) tramples with very little ceremony upon the duties of the treasurer, and the acts of the congress of the United States, when they come in his way.

These contracts, therefore, between the secretary of the treasury and the local banks are mere nullities, and absolutely void, enforceable in no court of justice whatever, for two causes; first, because they are made in violation of the act of the first of May, 1820; and, secondly, because the treasurer, and not the secretary of the treasury, alone had, if any federal officer possessed the power to contract with the local banks. And here, again, we perceive the necessity there was for avoiding the precipitancy with which the executive acted, and for awaiting the meeting of congress. Congress could have deliberately reviewed the previous legislation, decided upon the expediency of a transfer of the public deposits, and, if deemed proper, could have passed the new laws adapted to the new condition of the treasury. It could have decided whether the local banks should pay any bonus, or pay any interest, or diffuse the public deposits throughout the United States, so as to secure among all their parts, equality of benefits as well as of burdens, and provided for ample guarantees for the safety of the public moneys in their new depositories.

But let us now inquire, whether the secretary of the treasury has exercised his usurped authority, in the formation of these contracts, with prudence and discretion. Having substituted himself to congress and to the treasurer of the United States, he ought at least to show that, in the stipulations of the contracts themselves, he has guarded the public moneys and provided for the public interests. I will examine the contract with the Girard bank of Philadelphia, which is presented as a specimen of the contracts with the Atlantic banks. The first stipulation limits the duty of the local banks to receive in deposit, on account of the United States, only the notes of banks convertible into coin, 'in its *immediate* vicinity,' or which it is, 'for the time being, in the habit of receiving.' Under this stipulation, the Girard bank, for example,

will not be bound to receive the notes of the Louisville bank, although that also be one of the deposit banks, nor the notes of any other bank, not in its immediate vicinity. As to the provision that it will receive the notes of banks which, for the time being, it is in the habit of receiving, it is absurd to put such a stipulation in a contract, because by the power retained to change the habit, for the time being, it is an absolute nullity. Now, sir, how does this compare with the charter and bank of the United States? The bank receives every where, and credits the government with the notes, whether issued by the branches or the principal bank. The amount of all these notes is every where available to the government. But the government may be overflowing in distant bank notes when they are not wanted, and a bankrupt, at the places of expenditure, under this singular arrangement.

With respect to the transfer of moneys from place to place, the local banks require in this contract, that it shall not take place but upon *reasonable* notice. And what reasonable is, has been left totally undefined, and of course open to future contest. When hereafter a transfer is ordered, and the bank is unable to make it, there is nothing to do but to allege the unreasonableness of the notice. The local bank agrees to render to the government all the services now performed by the bank of the United States, subject, however, to the restriction that they are required 'in the vicinity'

security, the money may be gone, and that he may be entirely unable to get the one or the other! We have a law, if I mistake not, which forbids the advance of any public money, even to a disbursing agent of the government, without previous security. Yet, in violation of the spirit of that law, or, at least, of all common sense and common prudence, the secretary disperses upwards of twenty-five millions of public revenue among a countless number of unknown banks, and stipulates that, when the amount of the deposit exceeds one half of their respective capitals, security is to be given!

The best stipulation in the whole contract, is the last, which reserves to the secretary of the treasury the power of discharging these local banks from the service of the United States whenever he pleases; and the sooner he exercises it, and restores the public deposits to the place of acknowledged safety, from which they have been rashly taken, the better for all parties concerned.

Let us look into the condition of one of these local banks, the nearest to us, and that with respect to which we have the best information. The banks of this district (and among them that of the Metropolis) are required to make annual reports of their condition on the first day of January. The latest official return from the Metropolis bank is of the first of January, 1832. Why it did not make one on the first of last January, along with the other banks, I know not. In point of fact, I am informed, it made none. Here is its account of January, 1832, and I think you will agree that it is a Flemish one. On the debit side stand capital paid in, five hundred thousand dollars. Due to the banks, twenty thousand nine hundred and eleven dollars and ten cents; individuals on deposit, seventy-four thousand nine hundred and seventy-seven dollars and forty-two cents; dividend and expenses, seventeen thousand five hundred and ninety-one dollars and seventy-seven cents; and surplus, eight thousand one hundred and thirty-one dollars and two cents; making an aggregate of six hundred and eighty-four thousand four hundred and ninety-six dollars and thirty-one cents. On the credit side, there are bills and notes discounted, and stock (what sort?) bearing interest, six hundred and twenty-six thousand and eleven dollars and ninety cents; real estate, eighteen thousand four hundred and four dollars and eighty-six cents; notes of other banks on hand, and checks on the same, twenty-three thousand two hundred and thirteen dollars and eighty cents; specie—now, Mr. President, how much do you imagine? Recollect, that this is the bank selected at the seat of government, where there is necessarily concentrated a vast amount of public money, employed in the expenditure of government. Recollect that, by another executive edict, all public officers, charged with the disbursement of the public money here, are required to make their deposits with this Metropolis; and how much specie do you suppose it had at the date of its last official return? ten thousand nine hundred

nd seventy-four dollars and seventy-six cents; due from other anks, five thousand eight hundred and ninety dollars and ninety-ine cents; making in the aggregate on the credit side, six undred and eighty-four thousand four hundred and ninety-six lollars and thirty-one cents. Upon looking into the items, nd casting them up, you will find that this Metropolis bank, n the first day of January, 1832, was liable to an immediate all for one hundred and seventy-six thousand three hundred and hirty-five dollars and twenty-nine cents, and that the amount which it ad on hand, ready to meet that call, was forty thousand and seventy-ine dollars and fifty-five cents. And *this* is one of the banks elected at the seat of the general government, for the deposit of he public moneys of the United States. A bank with a capital f thirty millions of dollars, and upwards of ten millions of specie n hand has been put aside, and a bank with a capital of half a nillion, and a little more than ten thousand dollars in specie on and, has been substituted in its place! How that half million as been raised, whether in part or in the whole, by the neutraliz-ng operation of giving stock notes in exchange for certificates of tock, does not appear.

The design of the whole scheme of this treasury arrangement eems to have been, to have united in one common league a umber of local banks, dispersed throughout the union, and subject

authority insinuating itself into banks of their creation, and subject to their exclusive control?

We have, Mr. President, a most wonderful financier at the head of our treasury department. He sits quietly by in the cabinet, and witnesses the contest between his colleague and the president; sees the conflict in the mind of that colleague between his personal attachment to the president on the one hand, and his solemn duty to the public on the other; beholds the triumph of conscientious obligation; contemplates the noble spectacle of an honest man, preferring to surrender an exalted office with all its honors and emoluments, rather than betray the interests of the people; witnesses the contemptuous and insulting expulsion of that colleague from office; and then coolly enters the vacated place, without the slightest sympathy or the smallest emotion. He was installed on the twenty-third of September, and by the twenty-sixth, the brief period of three days, he discovers that the government of the United States had been wrong from its origin; that every one of his predecessors from Hamilton down, including Gallatin, (who, whatever I said of him on a former occasion, and that I do not mean to retract, possessed more practical knowledge of currency, banks, and finance, than any man I have ever met in the public councils,) Dallas, and Crawford, had been mistaken about both the expediency and constitutionality of the bank; that every chief magistrate, prior to him whose patronage he enjoyed, had been wrong; that the supreme court of the United States, and the people of the United States, during the thirty-seven years that they had acquiesced in or recognised the utter utility of a bank, were all wrong. And, opposing his single opinion to their united judgments, he dismisses the bank, scatters the public money, and undertakes to regulate and purify the public morals, the public press, and popular elections!

If we examine the operations of this modern Turgot, in their financial bearing, merely, we shall find still less for approbation.

First. He withdraws the public moneys, where, by his own deliberate admission, they were perfectly safe, with a bank of thirty-five millions of capital, and ten millions of specie, and places them at great hazard with banks of comparatively small capital, and but little specie, of which the Metropolis bank is an example.

Second. He withdraws them from a bank created by, and over which the federal government had ample control, and puts them in other banks, created by different governments, and over which it has no control.

Third. He withdraws them from a bank in which the American people, as a stockholder, were drawing their fair proportion of interest accruing on loans, of which those deposits formed the basis, and puts them where the people of the United States draw no interest.

Fourth. From a bank which has paid a bonus of a million and a half, which the people of the United States may be now liable to

efund, and puts them in banks which have paid to the American eople no bonus.

Fifth. Depreciates the value of stock in a bank, where the eneral government holds seven millions, and advances that of anks in whose stock it does not hold a dollar; and whose aggreate capital does not probably much exceed that very seven illions. And, finally,

Sixth He dismisses a bank whose paper circulates in the greatest redit throughout the union and in foreign countries, and engages n the public service banks whose paper has but a limited and local irculation in their 'immediate vicinities.'

These are immediate and inevitable results. How much that arge and long-standing item of unavailable funds, annually reported o congress, will be swelled and extended, remains to be developed y time.

And now, Mr. President, what, under all these circumstances, is t our duty to do? Is there a senator, who can hesitate to affirm, n the language of the resolution, that the president has assumed a langerous power over the treasury of the United States, not ranted to him by the constitution and the laws; and that the easons assigned for the act, by the secretary of the treasury, are nsufficient and unsatisfactory?

The eyes and the hopes of the American people are anxiously

# ON THE PUBLIC DISTRESS CAUSED BY THE REMOVAL OF THE DEPOSITS.

IN THE SENATE OF THE UNITED STATES, MARCH 7, 1834.

[THE removal of the deposits from the bank of the United States, by order of president Jackson, in October, 1833, caused great pecuniary embarrassments and distress in the commercial cities and towns of the United States, from the pernicious effect of the measure on the banks and currency. Numerous memorials were presented to congress, by the people, praying for relief. On the presentation of a memorial from Philadelphia, Mr. Clay made the brief remarks which follow, consisting principally of an eloquent appeal to the vice-president, Mr. Van Buren, to use his influence with general Jackson, to restore peace and prosperity to the country.]

I HAVE been requested by the committee from Philadelphia, charged with presenting the memorial to congress, to say a few words on the subject; and although, after the ample and very satisfactory exposition which it has received from the senator from Massachusetts, further observations are entirely unnecessary, I cannot deny myself the gratification of complying with a request, proceeding from a source so highly worthy of respectful consideration.

And what is the remedy to be provided for this most unhappy state of the country? I have conversed freely with the members of the Philadelphia committee. They are real, practical, working men; intelligent, well acquainted with the general condition, and with the sufferings of their particular community. No one, who has not a heart of steel, can listen to them, without feeling the deepest sympathy for the privations and sufferings unnecessarily brought upon the laboring classes. Both the committee and the memorial declare that their reliance is, exclusively, on the legislative branch of the government. Mr. President, it is with subdued feelings of the profoundest humility and mortification, that I am compelled to say, that, constituted as congress now is, no relief will be afforded by it, unless its members shall be enlightened and instructed by the people themselves. A large portion of the body, whatever may be their private judgment upon the course of the president, believe it to be their duty, at all events safest for them-

elves, to sustain him, without regard to the consequences of his measures upon the public interests. And nothing but clear, decided, and unequivocal demonstrations of the popular disapprobation of what has been done, will divert them from their present purpose.

But there is another quarter which possesses sufficient power and influence to relieve the public distresses. In twenty-four hours the executive branch could adopt a measure which would afford an efficacious and substantial remedy, and reëstablish confidence. And those who, in this chamber, support the administration, could not render a better service than to repair to the executive mansion, and, placing before the chief magistrate the naked and undisguised truth, prevail upon him to retrace his steps and abandon his fatal experiment. No one, sir, can perform that duty with more propriety than yourself. You can, if you will, induce him to change his course. To you, then, sir, in no unfriendly spirit, but with feelings softened and subdued by the deep distress which pervades every class of our countrymen, I make the appeal. By your official and personal relations with the president, you maintain with him an intercourse which I neither enjoy nor covet. Go to him and tell him, without exaggeration, but in the language of truth and sincerity, the actual condition of his bleeding country. Tell him it is nearly ruined and undone, by the measures which he has been induced to put in operation. Tell him that *his* experiment is

by the American people, and that they deserve at his hands better treatment. Tell him to guard himself against the possibility of an odious comparison, with that worst of the Roman emperors, who, contemplating with indifference the conflagration of the mistress of the world, regaled himself during the terrific scene, in the throng of his dancing courtiers. If you desire to secure for yourself the reputation of a public benefactor, describe to him truly the universal distress already produced, and the certain ruin which must ensue from perseverance in his measures. Tell him that he has been abused, deceived, betrayed, by the wicked counsels of unprincipled men around him. Inform him that all efforts in congress, to alleviate or terminate the public distress, are paralysed, and likely to prove totally unavailing, from his influence upon a large portion of the members, who are unwilling to withdraw their support, or to take a course repugnant to his wishes and feelings. Tell him that, in his bosom alone, under actual circumstances, does the power abide to relieve the country; and that, unless he opens it to conviction, and corrects the errors of his administration, no human imagination can conceive, and no human tongue can express, the awful consequences which may follow. Entreat him to pause, and to reflect that there is a point beyond which human endurance cannot go; and let him not drive this brave, generous, and patriotic people, to madness and despair.

Mr. President, unaffectedly indisposed, and unwilling as I am to trespass upon the senate, I could not decline complying with a request addressed to me, by a respectable portion of my fellow-citizens, part of the bone and sinew of the American public. Like the senator from Massachusetts, who has been intrusted with the presentation of their petition to the senate, I found them plain, judicious, sensible men, clearly understanding their own interests, and, with the rest of the community, writhing under the operation of the measures of the executive. If I have deviated from the beaten track of debate in the senate, my apology must be found in the anxious solicitude which I feel for the condition of the country. And, sir, if I shall have been successful in touching your heart, and exciting in you a glow of patriotism, I shall be most happy. You *can* prevail upon the president to abandon his ruinous course; and, if you will exert the influence which you possess, you will command the thanks and the plaudits of a grateful people.

# N THE STATE OF THE COUNTRY FROM THE EFFECTS OF THE REMOVAL OF THE DEPOSITS.

IN THE SENATE OF THE UNITED STATES, MARCH 14, 1834.

[THE following is one of the most happy and eloquent of Mr. Clay's efforts in the nate, delivered *impromptu*. The pecuniary distress of the business community of e United States, brought upon them by the war of general Jackson upon the ırrency, particularly the removal of the deposits, induced the merchants and me-ıanics to pour into the halls of congress their memorials for relief. Mr. Clay, on ·esenting some of these petitions, denounces in indignant terms the tyrannical and ɔstinate course of the president and his partisans, and alludes to the election in the ty of New York, favorable to the whigs, as evidence of a great change in public ınion.]

But what gives to these resolutions peculiar interest, in my estimation, is, that they exhibit a tone of feeling which rises far above any loss of property, however great, any distress from the stagnation of business, however intense. They manifest a deep and patriotic sensibility to executive usurpations, and to the consequent danger to civil liberty. They solemnly protest against the union of the purse and the sword in the hands of one man. They would not have consented to such a union in the person of the father of his country, much less will they in that of any living man. They feel that, when liberty is safe, the loss of fortune and property is comparatively nothing; but that when liberty is sacrificed, existence has lost all its charms.

The next document which I have to offer is a memorial, signed by nearly nine hundred mechanics of the city of Troy. Several of them are personally known to me. And judging from what I know, see, and hear, I believe there is not any where a more skilful, industrious, and respectable body of mechanics, than in Troy. They bear testimony to the prevalence of distress, trace it to the illegal acts of the executive branch of the government in the removal of the public deposits; ask their restoration, and the recharter of the bank of the United States. And the committee, in their letter addressed to me, say, 'we are, what we profess to be, working men, dependent upon our labor for our daily bread, confine our attention to our several vocations, and trust in God and the continental congress for such protection as will enable us to operate successfully.'

The first-mentioned depository of their confidence will not deceive them. But I lament to say that the experience during this session, does not authorize us to anticipate that coöperation in another quarter, which is indispensable to the restoration of the constitution and laws, and the recovery of the public purse.

The last memorial I would present, has been transmitted to me by the secretaries to a meeting stated to be the largest ever held in the county of Schenectady, in New York. It is signed by about eight hundred persons. In a few instances, owing to the subscriptions having been obtained by different individuals, the same name occurs twice. The memorialists bring their testimony to the existence of distress, and the disorders of the currency, and invoke the application of the only known, tried, and certain remedy, the establishment of a national bank.

And now, Mr. President, I will avail myself of the occasion to say a few words on the subject matter of these proceedings and memorials, and on the state of the country as we found it at the commencement of the session, and its present state.

When we met, we found the executive in the full possession of the public treasury. All its barriers had been broken down, and in place of the control of the law was substituted the uncontrolled

will of the chief magistrate. I say uncontrolled; for it is idle to pretend, that the executive has not unrestrained access to the public treasury, when every officer connected with it is bound to obey his paramount will. It is not the form of keeping the account; it is not the place alone where the public money is kept; but it is the power, the authority, the responsibility of independent officers, checking and checked by each other, that constitute the public security for the safety of the public treasure. This no longer exists, is gone, is annihilated.

The secretary sent us in a report containing the reasons (if they can be dignified with that appellation) for the executive seizure of the public purse. Resolutions were promptly offered in this body, denouncing the procedure as unconstitutional and dangerous to liberty, and declaring the total insufficiency of the reasons. Nearly three months were consumed in the discussion of them. In the early part of this protracted debate, the supporters of distress, pronounced it a panic got up for dramatic effect, and affirmed that the country was enjoying great prosperity. Instances occurred of members asserting that the places of their own residence were in the full enjoyment of enviable and unexampled prosperity, who, in the progress of the debate, were compelled reluctantly to own their mistake, and to admit the existence of deep and intense distress. Memorial after memorial poured in, committee after committee

the passions of the people, silently and secretly to forge chains to enslave the people.

Well, sir, during the continuance of the debate, we have been told, over and over again, that, let the question of the deposits be settled, let congress pass upon the report of the secretary, and the activity of business and the prosperity of the country will again speedily revive. The senate has passed upon the resolutions, and has done its duty to the country, to the constitution, and to its conscience.

And the report of the secretary has been also passed upon in the other house; but *how* passed upon? The official relations which exist between the two houses, and the expediency of preserving good feelings and harmony between them, forbid my saying all that I feel on this momentous subject. But I must say, that the house, by the constitution, is deemed the especial guardian of the rights and interests of the people; and, above all, the guardian of the people's money in the public treasury. The house has given the question of the sufficiency of the secretary's reasons the go-by, evaded it, shunned it, or rather merged it in the previous question. The house of representatives have not ventured to approve the secretary's reasons. It cannot approve them; but, avoiding the true and original question, has gone off upon a subordinate and collateral point. It has indirectly sanctioned the executive usurpation. It has virtually abandoned its constitutional care and control over the public treasury. It has surrendered the keys, or rather permits the executive to retain their custody; and thus acquiesces in that conjunction of the sword and the purse of the nation, which all experience has evinced, and all patriots have believed, to be fatal to the continuance of public liberty.

Such has been the extraordinary disposition of this great question. Has the promised relief come? In one short week, after the house pronounced its singular decision, three banks in this District of Columbia have stopped payment and exploded. In one of them the government has, we understand, sustained a loss of thirty thousand dollars. And in another, almost within a stone's throw of the capitol, that navy pension fund, created for our infirm and disabled, but gallant tars, which ought to be held sacred, has experienced an abstraction of twenty thousand dollars! Such is the realization of the prediction of relief made by the supporters of the executive.

And what is the actual state of the public treasury? The president, not satisfied with the seizure of it, more than two months before the commencement of the session, appointed a second secretary of the treasury since the adjournment of the last congress. We are now in the fifth month of the session; and in defiance of the sense of the country, and in contempt of the participation of the senate in the appointing power, the president has not yet

designed to submit the nomination of *his* secretary to the consideration of the senate. Sir, I have not looked into the record, but, from the habitual practice of every previous president, from the deference and respect which they all maintained towards a coördinate branch of the government, I venture to say, that a parallel case is not to be found.

Mr. President, it is a question of the highest importance, what is to be the issue, what the remedy, of the existing evils. We should deal with the people, openly, frankly, sincerely. The senate stands ready to do whatever is incumbent upon it; but unless the majority in the house will relent, unless it will take heed of and profit by recent events, there is no hope for the nation from the joint action of the two houses of congress at this session. Still, I would say to my countrymen, do not despair. You are a young, brave, intelligent, and as yet a free people. A complete remedy for all that you suffer, and all that you dread, is in your own hands. And the events, to which I have just alluded, demonstrate that those of us have not been deceived who have always relied upon the virtue, the capacity, and the intelligence of the people.

I congratulate you, Mr. President, and I hope *you* will receive the congratulation with the same heartfelt cordiality with which I tender it, upon the issue of the late election in the city of New York. I hope it will excite a patriotic glow in your bosom. I congratulate the senate, the country, the city of New York, the friends of liberty

liberty, property, or even existence! Countrymen of Tone, of Emmet, of Macneven, and of Sampson, if any of you have been deceived, and seduced into the support of a cause dangerous to American liberty, hasten to review and correct your course! Do not forget, that you abandoned the green fields of your native island to escape what you believed the tyranny of a British king Do not, I adjure you, lend yourselves, in this land of your asylum, this last retreat of the freedom of man, to the establishment here, for you, and for us all, of that despotism which you had proudly hoped had been left behind you, in Europe, for ever! There is much, I would fain believe, in the constitutional forms of government. But at last it is its parental and beneficent operation that must fix its character. A government may in form be free, in practice tyrannical; as it may in form be despotic, and in practice liberal and free.

It was a brilliant and signal triumph of the whigs. And they have assumed for themselves, and bestowed on their opponents, a demonstration which, according to all the analogy of history, is strictly correct. It deserves to be extended throughout the whole country. What was the origin, among our British ancestors, of those appellations? The tories were the supporters of executive power, of royal prerogative, of the maxim that the king could do no wrong, of the detestable doctrines of passive obedience and non-resistance. The whigs were the champions of liberty, the friends of the people, and the defenders of the power of their representatives in the house of commons.

During our revolutionary war, the tories took sides with executive power and prerogative, and with the king, against liberty and independence. And the whigs, true to their principles, contended against royal executive power, and for freedom and independence.

And what is the present but the same contest in another form? The partisans of the present executive sustain his power in the most boundless extent. They claim for him *all* executive authority. They make his sole will the governing power. Every officer concerned in the administration, from the highest to the lowest, is to conform to his mandates. Even the public treasury, hitherto regarded as sacred, and beyond his reach, is placed by them under his entire direction and control. The whigs of the present day are opposing executive encroachment, and a most alarming extension of executive power and prerogative. They are ferreting out the abuses and corruptions of an administration, under a chief magistrate who is endeavoring to concentrate in his own person the whole powers of government. They are contending for the rights of the people, for civil liberty, for free institutions, for the supremacy of the constitution and the laws. The contest is an arduous one; but, although the struggle may be yet awhile prolonged, by the blessing of God, and the spirit of our ancestors, the issue cannot be doubtful

The senate stands in the breach, ready to defend the constitution, and to relieve the distresses of the people. But, without the concurrence of another branch of congress, which ought to be the first to yield it, the senate alone can send forth no act of legislation. Unaided, it can do no positive good; but it has vast preventive power. It may avert and arrest evil, if it cannot rebuke usurpation. Senators, let us remain steadily by the constitution and the country, in this most portentous crisis; let us oppose, to all encroachments and to all corruption, a manly, resolute, and uncompromising resistance; let us adopt two rules, from which we will never deviate, in deliberating upon all nominations. In the first place, to preserve untarnished and unsuspected the purity of congress, let us negative the nominations of every member for any office, high or low, foreign or domestic, until the authority of the constitution and laws is fully restored. I know not that there is any member of either house capable of being influenced by the prospect of advancement or promotion; I would be the last to make such an insinuation; but suspicion is abroad, and it is best, in these times of trouble and revolution, to defend the integrity of the body against all possible imputations. For one, whatever others may do, I here deliberately avow my settled determination, whilst I retain a seat in this chamber, to act in conformity to that rule. In pursuing it, we but act in consonance with a principle proclaimed by the present chief magistrate himself, when out of power! But, alas!

states that we represent; above all, worthy of the name of American freemen! Let us 'pledge our lives, our fortunes, and our sacred honor,' to rescue our beloved country from all impending dangers. And, amidst the general gloom and darkness which prevail, let us continue to present one unextinguished light, steadily burning, in the cause of the people, of the constitution, and of civil liberty.

IN THE SENATE OF THE UNITE

[THE agitation of the public mind on the s
from the bank of the United States, continued d
and memorials were constantly presented to tha
from the pecuniary pressure occasioned by
Jackson. On presenting one of these memor
brief remarks.]

(From the National Intellige

MR. CLAY took occasion, yesterday
some memorials, and especially one
county, Pennsylvania, to animadvert
but in part playfully, to the present st
the opinions expressed by the memori
said he most decidedly entertained
after the vote by one branch of cong
deposits by the secretary of the tre
unconstitutional, it was the duty of
instantly to have restored the deposits
had been illegally taken; and such, h
course of any secretary of the treasu
sense of the fallibility of his own ju
which was due to the deliberate opi
house of representatives, on such a qu
in conflict with his own. Mr. Clay
either house of congress, a single inc
ment approved of the removal of the
independently of party considerations
he had yet to meet with that man.

As to the question yesterday add
Massachusetts, to those who hold the

country, Mr. Clay said he was himself ready to concur with them in fixing the earliest practicable day for adjournment, after passing the bills necessary to carry on the government.

What would be the consequence of such contempt, by those in power, of the successive evidences of public opinion, presented from day to day, and from week to week, it was easy to foresee. Already, he said, the whole 'party' was crumbling away; sinking, like the banks of the Mississippi undermined by the torrent, whole acres at a time. Why, (said Mr. Clay,) I am told that the whole regency of New York, taking the alarm, has fled from Albany, and taken refuge in this city. Whether they would or would not be redemanded by governor Marcy, under the laws in such cases made and provided, he could not say; but if they remained, he hoped they would be allowed the benefit of all the rights of hospitality due to such distinguished strangers. For himself, he condoled with the gentlemen, in this the trying time of their misfortunes, and trusted that they would be able to *bear* them with manly fortitude and christian resignation.

If any one who heard this part of Mr. Clay's speech was able to look grave upon it, thank heaven, it was not we.

In the course of Wednesday's debate, Mr. Clay having denounced, as contrary to the spirit of the constitution, the omission of the president of the United States to nominate to the senate, for confirmation or rejection, the present secretary of the treasury and other officers, though the senate has been now nearly six months in session; Mr. Webster rose, for the purpose of showing the views of this subject entertained by the great first president of the United States, and practiced upon by every administration in this government, up to the beginning of the present. For this purpose, Mr. Webster quoted from the record the following:

*Message from the president of the United States to the senate of the United States.*

*United States, February* 9, 1790.

GENTLEMEN OF THE SENATE,

Among the persons appointed, during the last session, to offices under the national government, there were some who declined serving. Their names and offices are specified in the first column of the foregoing list. I supplied these vacancies, agreeably to the constitution, by temporary appointments, which you will find mentioned in the second column of the list. These appointments will expire with your present session, and indeed OUGHT NOT TO ENDURE LONGER THAN UNTIL OTHERS CAN BE REGULARLY MADE. For that purpose, I now nominate to you the persons named in the third column of the list, as being in my opinion qualified to fill the offices opposite to their names in the first.

G. WASHINGTON.

# ON OUR RELATIONS WITH FRANCE.

## IN THE SENATE OF THE UNITED STATES, JANUARY 14, 1835.

[ In his annual message to congress, in December, 1834, president Jackson recom-
ended that a law should be passed, authorizing reprisals upon French property, in
se provision should not be made for the payment of the claims of the United States,
: aggressions upon our commerce, by France, between the years 1800 and 1817. A
eaty had been concluded between the two governments, at Paris, in 1831, by which
e French had agreed to pay the United States twenty-five millions of francs, for
oliations on the commerce of the latter, but the French chambers had refused to
te the necessary appropriation to execute the treaty. The president, therefore,
oposed extreme measures to congress, which, if they had been approved of, by that
dy, would, in all human probability, have involved the two nations in war. Mr.
ay, as chairman of the committee on foreign relations, it will be seen by the
lowing, disapproved of such a course. The controversy was finally settled through
e intervention of William the fourth, king of England.

Mr. Clay, from the committee on foreign relations, reported the following

that war with the utmost vigor which the arms and resources of the United States can give to it. I will not anticipate, however, such a state of things; nay, I feel very confident that such a rupture will not occur between the United States and France.

With respect to the justice of our claim upon France for payment of the indemnity stipulated by the treaty, the report of the committee is in entire concurrence with the executive. The opinion of the committee is, that the claims stipulated to be paid are founded in justice; that we must pursue them; that we must finally obtain satisfaction for them, and to do so, must, if necessary, employ such means as the law of nations justifies and the constitution has placed within our power. On these points there is no diversity of sentiment between the committee and the president; there *could* be no diversity between either the committee or the president and any American citizen.

In all that the president has said of the obligation of the French government to make the stipulated provision for the claims, the committee entirely concur. If the president, in his message, after making his statement of the case, had stopped there, and abstained from the recommendation of any specific measure, there could not have been possibly any diversity of opinion on the subject between him and any portion of the country. But, when he declares the confidence which he entertains in the French government; when he expresses his conviction that the executive branch of that government is honest and sincere in its professions, and recites the promise by it of a renewed effort to obtain the passage of a bill of appropriation by the French chambers, it did appear to the committee inconsistent with these professions of confidence, that they should be accompanied by the recommendation of a measure which could only be authorized by the conviction that no confidence, or, at least, not entire confidence, could be placed in the declaration and professions of the French government. Confidence and distrust are unnatural allies. If we profess confidence any where, especially if that confidence be but for a limited period, it should be unaccompanied with any indication whatever of distrust; a confidence full, free, frank. But to say, as the president, through our minister, has said, that he will await the issue of the deliberations of the chambers, confiding in the sincerity of the king, and this, too, after hearing of the rejection of the first bill of appropriation by the chambers, and now, at the very moment when the chambers are about deliberating on the subject, to throw out in a message to congress what the president himself considered might possibly be viewed as a menace, appeared to the committee, with all due deference to the executive, and to the high and patriotic purposes which may be supposed to have induced the recommendation, to be inconsistent to such a degree as not to be seconded by the action of congress. It also appeared to the committee, after

the distinct recommendation by the president on this subject, that there should be some expression of the sense of congress in regard to it. Such an expression is proposed by the resolution now under consideration.

In speculating upon probabilities in regard to the course of the French government, in reference to the treaty, four contingencies might be supposed to arise—first, that the French government may have made the appropriation to carry the treaty into effect *before* the reception of the president's message; second, the chambers may make the appropriation *after* the reception of the president's message, and notwithstanding the recommendation on this subject contained in it; third, the chambers may, in consequence of that recommendation, hearing of it before they shall have acted finally on the subject, refuse to make any appropriation until what they may consider a menace shall have been explained or withdrawn; or, fourth, they may, either on that ground, or on the ground of dissatisfaction with the provisions of the treaty, refuse to pass the bill of appropriation. Now, in any of these contingencies, after what has passed, an expression of the sense of congress on the subject appears to me indispensable, either to the passage of the bill, or the subsequent payment of the money, if passed.

Suppose the bill to have passed before the reception of the message, and the money to be in the French treasury, it would

carried out by the passage of a law by congress, a resolution like this will furnish the evidence desired of the disposition of congress.

If, indeed, upon the reception of the president's message the chambers shall have refused to make the appropriation, they will have put themselves in the wrong by not attending to the distribution of the powers of this government, and informing themselves whether those branches which alone can give effect to the president's recommendation, would respond to it. But, if they take the other course suggested, that of suspending action on the bill until they ascertain whether the legislative department of the government coincides with the executive in the contingent measure recommended, they will then find that the president's recommendation—the expression of the opinion of one high in authority, indeed, having a strong hold on the affections and confidence of the people, wielding the executive power of the nation, but still an inchoate act, having no effect whatever without the legislative action—had not been responded to by congress, and so forth. Thus under all contingencies happening on the other side of the water, and adapted to any one of those contingencies, the passage of this resolution can do no mischief in any event, but is eminently calculated to prevent mischief, and to secure the very object which the president doubtless proposed to accomplish by his recommendation.

I will not now consume any more time of the house by further remarks, but will resume my seat with the intimation of my willingness to modify the resolution in any manner, not changing its result, which may be calculated to secure, what on such an occasion would be so highly desirable, the unanimous vote of the senate in its favor. I believe it, however, all-essential that there should be a declaration that congress do not think it expedient, in the present state of the relations between the United States and France, to pass any law whatever concerning them.

[After brief remarks by several other members, the resolution was slightly modified and passed by a unanimous vote.]

# ON OUR RELATIONS WITH THE CHEROKEE INDIANS.

## IN THE SENATE OF THE UNITED STATES, FEBRUARY 4, 1835.

[THE situation of the Indian tribes within the boundaries of the state of Georgia vas long a subject of controversy between that state and the United States; it having een contended that the general government were bound, by former contracts with he state, to extinguish the Indian title to the lands occupied by them, and to provide or their removal therefrom, which lands were then to belong to the state. In May, 830, a bill, providing for the removal of the Cherokees from the limits of Georgia to erritories of the United States west of the Mississippi river, was passed by congress; ut such was the reluctance of these Indians to remove, that, during a period of five ears thereafter, only about one fourth of their number had emigrated. The suffer- ngs of those who remained, from the wrongs perpetrated upon them by the whites, xcited a deep sympathy in their behalf among the people of the United States. The Cherokees frequently sent memorials to congress, asking for relief; in presenting one f which, Mr. Clay made the following remarks, in which will be found much valu- ble information on an interesting subject. His opinions and sentiments will accord vith those of every philanthropist.]

of emigration. They present a case which appeals strongly to the sympathies of congress. They say that it is impossible for them to continue to live under laws which they do not understand, passed by authority in which they have no share, promulgated in language of which nothing is known to the greater portion of them, and establishing rules for their government entirely unadapted to their nature, education, and habits. They say that destruction is hanging over them if they remain; that, their right of self-government being destroyed, though they are sensible of all the privations, hardships, and sufferings of banishment from their native homes, they prefer exile, with liberty, to residence in their homes, with slavery. They implore, therefore, the intervention of the general government, to provide for their removal west of the Mississippi, and to establish guarantees, never hereafter to be violated, of the possession of the lands to be acquired by them west of the Mississippi, and of the perpetual right of self-government. This was the object of the resolutions and petition which he was about to offer to the senate.

But I have thought that this occasion was one which called upon me to express the opinions and sentiments which I hold in relation to this entire subject, as respects not only the emigrating Indians, but those also who are desirous to remain at home; in short, to express, in concise terms, my views of the relations between the Indian tribes and the people of the United States, the rights of both parties, and the duties of this government in regard to them.

The rights of the Indians were to be ascertained in the first place, by the solemn stipulations of numerous treaties made with them by the United States. It was not his purpose to call the attention of the senate to all the treaties which had been made with Indian tribes bearing on this particular topic; but he felt constrained to ask the attention of the senate to some portions of those treaties which have been made with the Cherokees, and to the memorable treaty of Greenville, which had terminated the war that previously thereto for many years raged between the United States and the northwestern Indian tribes. He found, upon consulting the collection of Indian treaties in his hand, that within the last half century, fourteen different treaties had been concluded with the Cherokees, the first of which bore date in the year 1775, and some one or more of which had been concluded under every administration of the general government, from the beginning of it to the present time, except the present administration, and that which immediately preceded it. The treaty of Hopewell, the first in the series, was concluded in 1775, in the third article of which 'the said Indians, for themselves and their respective tribes and towns, do acknowledge all the Cherokees to be under the protection of the United States of America, *and of no other sovereign whatsoever.*' The fifth article of the same treaty provides, that 'if any citizen of the United States, or other person, not being an Indian, shall attempt

The next treaty in the series, w
establishment of the government of t
pices of the father of his country, was
the Holston, and contains the follow
United States solemnly guaranty to
lands not hereby ceded.' This, Mr.
assurance of protection, and so forth
rights of the Cherokees to the land
to which he would call the attentio
in 1794, also under the auspices
declares as follows. 'The undersigi
the department of war, being author
the United States, in behalf of th
undersigned chiefs and warriors, in
of the whole Cherokee nation, are
and friendship between the said p
do hereby declare, that the said tre
and purposes, in full force, and bin
well in respect to the boundaries th
respects whatever.' This treaty, i
guarantee contained in the precedi
binding and obligatory upon the p
Again, in another treaty, conclud
chief magistrate of the United Stat
lations. 'Article 2. The treaties s
contracting parties are acknowledg
force; together with the constructio
tive articles, and so to continue.' '.
daries of the Cherokee nation, as
existing treaties between the parties
where not altered by the present tre

There were other provisions, in o

portion was desirous to go beyond the Mississippi. In that treaty, the fifth article, after several other stipulations, concludes as follows. 'And it is further stipulated, that the treaties heretofore between the Cherokee nation and the United States are to continue in full force with both parts of the nation, and both parts thereof entitled to all the privileges and immunities which the old nation enjoyed under the aforesaid treaties; the United States reserving the right of establishing factories, a military post, and roads, within the boundaries above defined.' And to this treaty, thus emphatically renewing the recognition of the rights of the Indians, is signed the name, as one of the commissioners of the United States who negotiated it, of the present chief magistrate of the United States.

These were the stipulations in treaties with the Cherokee nation, to which, Mr. Clay said, he thought proper to call the attention of the senate. He would now turn to the treaty of Greenville, concluded about forty years ago, recognising some general principles applicable to this subject. Mr. Clay then quoted the fifth article of that treaty, as follows. 'To prevent any misunderstanding about the Indian lands relinquished by the United States in the fourth article, it is now explicitly declared, that the meaning of that relinquishment is this: the Indian tribes who have a right to those lands are quietly to enjoy them, hunting, planting, and dwelling thereon so long as they please, without any molestation from the United States; but when those tribes, or any of them, shall be disposed to sell their lands, or any part of them, they are to be sold only to the United States; and until such sale, the United States will protect all the said Indian tribes in the quiet enjoyment of their lands against all citizens of the United States, and against all other white persons who intrude upon the same. And the said Indian tribes again acknowledge themselves to be under the protection of the said United States, and no other power whatever.'

Such, sir, are the rights of the Indian tribes. And what are those rights? They are, that the Indians shall live under their own customs and laws; that they shall live upon their own lands, hunting, planting, and dwelling thereon so long as they please, without interruption or molestation of any sort from the white people of the United States, acknowledging themselves under the protection of the United States, and of no other power whatever; that when they no longer wish to keep the lands, they shall sell them only to the United States, whose government thus secures to itself the preëmptive right of purchase in them. These rights, so secured by successive treaties and guarantees, have also been recognised on several occasions, by the highest judicial tribunals. Mr. Clay here quoted, from an opinion of the supreme court, a passage, declaring that the Indians are acknowledged to have an unquestionable and heretofore unquestioned right to their land, until it shall be extinguished by voluntary cession to this government.

But it is not at home alone that the rights of the Indians within the limits of the United States have been recognised. Not only has the executive, the congress of the United States, and the supreme court, recognised these rights, but in one of the most important epochs of this government, and on one of the most solemn occasions in our intercourse with foreign powers, these rights of the Indian tribes have been acknowledged. You, sir, (addressing the president of the senate,) will understand me at once to refer to the negotiation between the government of Great Britain and that of the United States, which had for its object the termination of the late war between the two countries. Sir, it must be within your recollection, and that of every member of the senate, that the hinge upon which that negotiation turned, the ground upon which it was for a long time apprehended that the conference between the commissioners would terminate in a rupture of the negotiation between the two countries, was, the claim brought forward, on that memorable occasion, by Great Britain, in behalf of the Indians within the limits of the United States. It will be recollected that she advanced, as a principle from which she would not recede, as a *sine qua non*, again and again, during the progress of the negotiation, that the Indians, as her allies, should be included in the treaty of peace which the negotiators were about forming; that they should have a permanent boundary assigned them, and

which had planted colonies in America, comparing it with that of the United States, and contrasting the lenity, kindness, and forbearance of the United States, with the rigor and severity of other powers, the American negotiators expressed themselves as follows.

'From the rigor of this system, however, as practiced by Great Britain, and all the other European powers in America, the humane and liberal policy of the United States has voluntarily relaxed. A celebrated writer on the law of nations, to whose authority British jurists have taken particular satisfaction in appealing, after stating, in the most explicit manner, the legitimacy of colonial settlements in America, to the exclusion of all rights of uncivilized Indian tribes, has taken occasion to praise the first settlers of New England, and of the founder of Pennsylvania, in having purchased of the Indians the lands they resolved to cultivate, notwithstanding their being furnished with a charter from their sovereign. It is this example which the United States, since they became by their independence the sovereigns of the territory, have adopted and organized *into a political system.* Under *that system* the Indians residing in the United States are so far independent, that *they live under their own customs, and not under the laws of the United States;* that their rights upon the lands where they inhabit or hunt *are secured to them by boundaries* defined in amicable treaties between the United States and themselves; and that whenever those boundaries are varied, it is also by amicable and voluntary treaties, by which they receive from the United States ample compensation for every right they have to the lands ceded by them,' and so forth.

The correspondence was further continued; and, finally, the commissioners on the part of Great Britain proposed an article to which the American commissioners assented, the basis of which is, a declaration of what is the state of the law between the Indian tribes and the people of the United States. They then proposed a further article, which declared that the United States should endeavor to restore peace to the Indians who had acted on the side of Great Britain, together with all the rights, possessions, privileges, and immunities which they possessed prior to the year 1811, that is, antecedently to the war between England and the United States; in consideration that Great Britain would terminate the war, so far as respected the Indians who had been allies of the United States, and restore to them all the rights, privileges, possessions, and immunities which these also had enjoyed previously to the same period. Mr President, I here state my solemn belief, that if the American commissioners had not declared the laws between the Indians and the people of this country, and the rights of the Indians, to be such as they are stated to be in the extracts I have read to the senate; if they had then stated that any one state of this union who happened to have Indians residing within its limits, possessed the right of extending over them the laws of such state, and of taking their

lands, when and how it pleased, that the effect would have been a prolongation of the war. I again declare my most solemn belief that Great Britain, who assented with great reluctance to this mutual stipulation with respect to the Indians, never would have done it at all, but under a conviction of the correspondence of those principles of Indian international law, (if I may use such a phrase,) with those which the United States government had respected ever since the period of our independence.

Sir, if I am right in this, let me ask whether in adopting the new code which now prevails, and by which the rights of the Indians have been trampled on, and the most solemn obligations of treaties have been disregarded, we are not chargeable with having induced that power to conclude a peace with us by suggestions utterly unfounded and erroneous?

Most of the treaties between the Cherokee nation of Indians and the United States have been submitted to the senate for ratification, and the senate have acted upon them in conformity with their constitutional power. Besides the action of the senate, as a legislative body, in the enactment of laws in conformity with their stipulations, regulating the intercourse of our citizens with that nation, it has acted in its separate character, and confirmed the treaties themselves by the constitutional majority of two thirds of its members. Thus have those treaties been sanctioned by the govern-

ated only by feelings of grief, feelings of sorrow, and of profound regret, irresistibly called forth by a contemplation of the miserable condition to which these unfortunate people have been reduced by acts of legislation proceeding from one of the states of this confederacy. I again assure the honorable senators from Georgia, that, if it has become my painful duty to comment upon some of these acts, I do it not with any desire to place them, or the state they represent, in an invidious position; but because Georgia was, I believe, the first in the career, the object of which seems to be the utter annihilation of every Indian right, and because she has certainly, in the promotion of it, far outstripped every other state in the union.

I have not before me the various acts of the state in reference to the Indians within her bounds; and it is possible I may be under some mistake in reference to them; and if I am, no one will correct the error more readily, or with greater pleasure.

If, however, I had all those laws in my hands, I should not now attempt to read them. Instead of this, it will be sufficient for me to state the effects which have been produced by them upon the condition of the Cherokee Indians residing in that state. And here follows a list of what has been done by her legislature. Her first act was to abolish the government of these Cherokees. No human community can exist without a government of some kind; and the Cherokees, imitating our example, and having learned from us something of the principles of a free constitution, established for themselves a government somewhat resembling our own. It is quite immaterial to us what its form was. They always had had some government among them; and we guarantied to them the right of living under their own laws and customs, unmolested by any one; insomuch that our own citizens were outlawed should they presume to interfere with them. What particular regulations they adopted, in the management of their humble and limited concerns, is a matter with which we have no concern. However; the very first act of the Georgia legislature was, to abolish all government of every sort among these people, and to extend the laws and government of the state of Georgia over them. The next step was to divide their territory into counties; the next, to survey the Cherokee lands; and the last, to distribute this land among the citizens of Georgia by lottery, giving to every head of a family one ticket, and the prize in land that should be drawn against it. To be sure there were many reservations for the heads of Indian families; and of how much did gentlemen suppose? of *one hundred and sixty acres only*, and this to include their improvements. But even to this limited possession the poor Indian was to have no fee simple title; he was to hold as a mere occupant, at the will of the state of Georgia, for just as long or as short a time as she might think proper. The laws at the same time gave him no

one political right, whatever. He could not become a member of the state legislature, nor could he hold any office under state authority, nor could he vote as an elector. He possessed not one single right of a freeman; no; not even the poor privilege of testifying to his wrongs in the character of a witness in the courts of Georgia, or in any matter of controversy, whatsoever.

These, Mr. President, are the acts of the legislature of the state of Georgia, in relation to the Indians. They were not all passed at one session; they were enacted, time after time, as the state advanced further and further in her steps to the acquisition of the Indian country, and the destruction and annihilation of all Indian rights; until, by a recent act of the same body, the courts of the state itself are occluded against the Indian sufferer, and he is actually denied an appeal even to foreign tribunals, in the erection and in the laws of which he had no voice, there to complain of his wrongs. If he enters the hall of Georgia's justice, it is upon a surrender at the threshold of all his rights. The history of this last law, to which I have alluded, is this; when the previous law of the state dividing the Indian lands by lottery was passed, some Indians made an appeal to one of the judges of the state, and applied for an injunction against the proceeding; and such was the undeniable justice of their plea, that the judge found himself unable to refuse it, and he granted the injunction sought. It was that injunction which led to the passage of this act; to some of the provisions of which I now invite the attention of the senate. And first to the *title* of the act; 'a bill to amend an act entitled an act more effectually to provide for the government and protection of the Cherokee Indians residing within the limits of Georgia, and to prescribe the bounds of their occupant claims; and also to authorize grants to issue for lots drawn in the late land and gold lotteries' — ah, sir, it was the pursuit of *gold* which led the Spanish invader to desolate the fair fields of Mexico and Peru — 'and to provide for the appointment of an agent to carry certain parts thereof into execution; and to fix the salary of such agent, and to punish those persons who may deter Indians from enrolling for emigration, passed the twentieth of December, 1833.' Well, sir, this bill goes on to provide, 'that it shall be the duty of the agent or agents appointed by his excellency the governor, under the authority of this or the act of which it is amendatory, to report to him the number, district, and section of all lots of land subject to be granted by the provisions of said act, which he may be required to do by the drawer, or his agent, or the person claiming the same; and it shall be the duty of his excellency the governor. upon the application of the drawer of any of the aforesaid lots, his or her special agents, or the person to whom the drawer may have *bonâ fide* conveyed the same, his agent or assigns, to issue a grant therefor; and it shall be the duty of the said agent or agents, upon the production of the grant so issued as aforesaid by the grantor,

his or her agent, or the person, or his or her agent to whom said land so granted as aforesaid may have been *bonâ fide* conveyed, to deliver possession of said granted lot to the said grantee, or person entitled to the possession of the same under the provisions of this act, or the act of which this is amendatory, and his excellency the governor is hereby authorized, upon satisfactory evidence that the said agent is impeded or resisted in delivering such possession, by a force which he cannot overcome, to order out a sufficient force to carry the power of said agent or agents fully into effect, and to pay the expenses of the same out of the contingent fund; *provided* nothing in this act shall be so construed as to require the interference of the said agent between two or more individuals claiming possession, by virtue of titles derived from a grant from the state to any lot.'

Thus, after the state of Georgia had distributed the lands of the Indians by lottery, and the drawers of prizes were authorized to receive grants of the land drawn, and with these grants in their hand were authorized to demand of the agent of the state, appointed for the purpose, to be put in possession of the soil thus obtained; and if any resistance to their entry should be made, and who was to make it but a poor Indian? the governor is empowered to turn out the military force of the state, and enable the agent to take possession by force, without trial, without judgment, and without investigation.

But, should there be two claimants of the prize, should two of the ticket-holders dispute their claim to the same lot, then no military force was to be used. It was only when the resistance was by an Indian — it was only when Indian rights should come into collision with the alleged rights of the state of Georgia — that the strong hand of military power was instantly to interpose.

The next section of the act is in these words: 'and be it further enacted by the authority aforesaid, that if any person dispossessed of a lot of land under this act, or the act of which it is amendatory, shall go before a justice of the peace or of the inferior court, and make affidavit that he or she was not liable to be dispossessed under or by any of the provisions of this or the aforesaid act, and file said affidavit in the clerk's office of the superior court of the county in which said land shall lie, such person upon giving bond and security in the clerk's office for the costs to accrue on the trial, shall be permitted within ten days from such dispossessing to enter an appeal to said superior court and at said court the judge shall cause an issue to be made up between the appellant and the person o whom possession of said land was delivered by either of said agents, which said issue shall be in the following form.'

[Mr. Cuthbert, of Georgia, here interposed; and having obtained Mr. Clay's consent to explain, stated that he had unfortunately not been in the senate when the honorable senator commenced his speech; but had learned that it was in support of a memorial

from certain Cherokee Indians in the state of Georgia, who desired to emigrate. He must be permitted to say, that the current of the honorable senator's remarks did not suit remarkably well the subject of such a memorial. A memorial of a different kind had been presented, and which the committee on Indian affairs had before it, to which the senator's remarks would better apply. The present discussion was wholly unexpected, and it seemed to him not in consistency with the object of the memorial he had presented.]

Mr. Clay replied, that he was truly sorry the honorable gentleman had been absent when he commenced speaking. He had delayed presenting the memorial, because he observed that neither of the senators from Georgia was in his seat, until the hour when they might be expected to be present, and when one of them, (Mr. King,) had actually taken his seat. If the honorable senator had been present he would have heard Mr. Clay say that he thought the presentation of the memorial a fit occasion to express his sentiments, not only touching the rights of these individual petitioners, but on the rights of all the Indian tribes, and their relations to this government. And if he would have but a little patience he would find that it was Mr. Clay's intention to present propositions which went to embrace both resolutions.

Mr. Clay now resumed the course of his speech. And here, Mr. President, let me pause, and invite the attention of the senate to the provision in the act of Georgia which I was reading, (the substance of which Mr. Clay here repeated,) that is, that he may have the privilege of an appeal to a tribunal of justice by forms

good cause shall be shown for a continuance, and the same party shall not be permitted to continue said cause more than once, except for unavoidable providential cause; nor shall said court at the instance of either party pass any order or grant any injunction to stay said cause, nor permit to be engrafted on said cause any other proceedings, whatever.''

At the same time, we find, by another enactment, the judges of the courts of Georgia are restrained from granting injunctions, so that the only form in which the Indian can come before them, is in the form of an appeal; and in this, the very first step is an absolute renunciation of the rights he holds by treaty, and the unqualified admission of the rights of his antagonist, as conferred by the laws of Georgia; and the court is expressly prohibited from putting any thing else upon the record. Why? do we not all know the reason? If the poor Indian was allowed to put in a plea stating his rights, and the court should then decide against him, the cause would go upon an appeal to the supreme court; the decision could be reëxamined, could be annulled, and the authority of treaties vindicated. But, to prevent this, to make it impossible, he is compelled, on entering the court, to renounce his Indian rights, and the court is forbidden to put any thing on record which can bring up a decision upon them.

Mr. President, I have already stated that, in the observations I have made, I am actuated by no other feelings than such as ought to be in the breast of every honest man, the feelings of common justice. I would say nothing, I would whisper nothing, I would insinuate nothing, I would think nothing, which can, in the remotest degree, cause irritation in the mind of any one, of any senator here, of any state in this union; I have too much respect for every member of the confederacy. I feel nothing but grief for the wretched condition of these most unfortunate people, and every emotion of my bosom dissuades me from the use of epithets that might raise emotions which should draw the attention of the senate from the justice of their claims. I forbear to apply to this law any epithet of any kind. Sir, no epithet is needed. The features of the law itself; its warrant for the interposition of military power, when no trial and no judgment has been allowed; its denial of any appeal, unless the unhappy Indian shall first renounce his own rights, and admit the rights of his opponent; features such as these are enough to show what the true character of the act is, and supersede the necessity of all epithets, were I even capable of applying any.

The senate will thus perceive that the whole power of the state of Georgia, military as well as civil, has been made to bear upon these Indians, without their having any voice in forming, judging upon, or executing the laws under which he is placed, and without even the poor privilege of establishing the injury he may have suffered, by Indian evidence; nay, worse still, not even by the evidence of a white man! Because the renunciation of his rights

precludes all evidence, white or black, civilized or savage. There then he lies, with his property, his rights, and every privilege which makes human existence desirable, at the mere mercy of the state of Georgia; a state, in whose government or laws he has no voice. Sir, it is impossible for the most active imagination to conceive a condition of human society more perfectly wretched. Shall I be told that the condition of the African slave is worse? No, sir; no, sir. It is not worse. The interest of the master makes it at once his duty and his inclination, to provide for the comfort and the health of his slave; for without these, he would be unprofitable. Both pride and interest render the master prompt in vindicating the rights of his slave, and protecting him from the oppression of others; and the laws secure to him the amplest means to do so. But who, what human being, stands in the relation of master or any other relation, which makes him interested in the preservation and protection of the poor Indian thus degraded and miserable? Thrust out from human society, without the sympathies of any, and placed without the pale of common justice, who is there to protect him, or to defend his rights?

Such, Mr. President, is the present condition of these Cherokee memorialists, whose case it is my duty to submit to the consideration of the senate. There remains but one more inquiry before I conclude. Is there any REMEDY within the scope of the powers of

Why have we assigned them limits of territory? Why have we declared that they shall enjoy their homes in peace, without molestation from any? If the United States government has contracted these serious obligations, it ought, before the Indians were reduced by our assurances to rely upon our engagement, to have explained to them its want of authority to make the contract. Before we pretend to Great Britain, to Europe, to the civilized world, that such were the rights we would secure to the Indians, we ought to have examined the extent and the grounds of our own rights to do so. But is such, indeed, our situation? No, sir. Georgia has shut her courts against these Indians. What is the remedy? *To open ours.* Have we not the right? What says the constitution? 'The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority.'

But here was a case of conflict between the rights of the proprietors and the local laws; and here was the very case which the constitution contemplated, when it declared that the power of the federal judiciary should extend to all cases under the authority of the United States. Therefore, it was fully within the competence of congress, under the provisions of the constitution, to provide the manner in which the Cherokees might have their rights decided, because a grant of the means was included in the grant of jurisdiction. It was competent, then, for congress to decide, whether the Cherokee had a right to come into a court of justice and to make an appeal to the highest authority, to sustain the solemn treaties under which their rights had been guarantied, and in the sacred character of which they had reposed their confidence. And if congress possessed the power to extend relief to the Indians, were they not bound, by the most sacred of human considerations, the obligations of treaties, the protection assured them, by every christian tie, every benevolent feeling, every humane impulse of the human heart, to extend it? If they were to fail to do this, and there was, as reason and revelation declared there was, a tribunal of eternal justice, to which all human power was amenable, how could they, if they refused to perform their duties to this injured and oppressed, though civilized race, expect to escape the visitations of that divine vengeance which none would be permitted to avoid, who had committed wrong, or done injustice to others?

At this moment, when the United States were urging on the government of France the fulfilment of the obligations of the treaty concluded with that country, to the execution of which, it was contended that France had plighted her sacred faith, what strength, what an irresistible force would be given to our plea, if we could say to France, that, in all instances, we had completely fulfilled all our engagements, and that we had adhered faithfully to every obligation which we had contracted, no matter whether it

was entered into with a powerful or a weak people; if we could say to her, that we had complied with all our engagements to others, that we now came before her, always acting right as we had done, to induce her also to fulfil her obligations to us. How should we stand in the eyes of France, and of the civilized world, if we, in spite of the most solemn treaties, which had existed for half a century, and had been recognised in every form, and by every branch of the government; how would they be justified, if they, suffered these treaties to be trampled under foot, and the rights which they were given to secure, trodden into the dust? How would Great Britain, after the solemn understanding entered into with her at Ghent, feel, after such a breach of faith? And how could he, as a commissioner on the negotiation of that treaty, hold up his head before Great Britain, after having been thus made an instrument of fraud and deception, as he assuredly would have been, if the rights of the Indians are to be thus violated, and the treaties by which they were secured, violated? How could he hold up his head, after such a violation of rights, and say that he was proud of his country, of which they all must wish to be proud?

For himself, he rejoiced that he had been spared, and allowed a suitable opportunity to present his views and opinions, on this great national subject, so interesting to the national character of the country for justice and equity. He rejoiced that the voice which, without shades of presumption or arrogance, he might say was

As to his resolutions, he knew, that in the regular order of business, they could not be taken up until to-morrow, but, if it met with the approbation of the senate, he would be as well disposed to act on them to-day as to-morrow.

In reply to Mr. Cuthbert, of Georgia, and Mr. White, of Tennessee, Mr. Clay said he could assure the honorable senator from Georgia, that nothing was further from his purpose, than to make any display on this occasion. That he always left to others, and by the judgment of the senate he was willing to abide, whether the honorable senator himself had not been guilty of that which he imputed to others. For, after addressing the senate, himself, some time, he had said that he did not intend arguing the question, that Georgia would not appear before the senate or any other tribunal. Now, Georgia might be content to do that, but could congress, could honorable senators, reconcile it with their duty, with their responsibility, to coldly contemplate the violation of numerous treaties, to witness the destruction of a people under the protection of the United States, and to let that injustice which had been inflicted on these unfortunate Cherokees, be perpetuated without the slightest notice on their part?

The gentleman from Tennessee, (Mr. White,) had remarked, that they were all unconstitutional treaties; that they had no binding force as treaties; that general Washington was mistaken; that every succeeding administration was mistaken; that general Jackson himself was mistaken, in 1817, in regard to these treaties. Now, if they gave the argument of the honorable senator from Tennessee its full force, what was the consequence? What did he, (Mr. Clay,) offer? He said, merely to open the question to the court. If they had no validity, if the question which was sent to the judiciary did not rest upon treaties, they could vindicate no rights under them. Why had Georgia, if she believed there were no treaties, made provisions in her late act to which he had referred? Why shut out the rights of the Indians under the treaty? Why, if she was convinced of the unconstitutionality of the treaties, did she not allow them to be submitted to the federal judiciary, which was bound to declare that they were not obligatory and binding, if unconstitutional? Why has she studiously precluded the possibility of a review, in the supreme court, of the decisions of the local tribunals? But the gentleman had told the senate, that the treaty of '91 was the first that guarantied to the Cherokees their lands, and that president Washington doubted whether it was necessary to submit it to the senate. It might be true, at the commencement of the government, when every thing was new and unfixed, that there were doubts; but general Washington decided that it was a treaty, and laid it, with his doubts, before the senate, who decided them, and the treaty was ratified by and with the consent of the senate. And from that day those

doubts have remained dispelled. He was indebted to the honorable senator for the historical fact which he, (Mr. Clay,) had not before pressed, that this very guaranty which secured to the Indians the undisturbed possession of their lands in the treaty of '91, was inserted by the express direction of the father of his country. And the senate was called upon now, not merely to violate the solemn obligations which the whole nation had contracted, but to violate the provision which had been inserted at the instance of the venerated father of his country!

The honorable senator had told this body, that the treaty of '91 was the first in which there was any guarantee. If the gentleman meant to say it was the first in which there was any *express* guarantee, he, (Mr. Clay,) would admit it. But, in the treaty of '85, if it was not expressed, was it not implied? What was that clause, marking the boundaries of their territory? That, in the same treaty, which places the Indians under the protection of the United States, and excludes them from the authority of any other sovereign? And that, which outlaws citizens of the United States who intrude on their territory? What was the meaning of those clauses, if they did not, by implication at least, guaranty their rights, their property, and the peace of their country? But, the gentleman says, that in inserting the guaranty of '91, there was a mistake; it was supposed that it was without the limits of North Carolina, and

in their corporate, or collective character, from bringing their grievances before the courts? Nothing. And, that they were competent to this, we had only to look at the state papers which had emanated from them, and which did them immortal credit, to be convinced. The senator from Tennessee asked, 'what the states would do? Would they array the federal power against the power of the state governments, and thus produce that condition of things which must result in the Indians' being stricken from the face of the earth?' Did not the honorable senator remember the period when a state of this union was actually arrayed and marshalled to defend its interpretation of the constitution? He was hearty in the support of the force bill; he did not stop to look at the possible consequences of a civil war. He, (Mr. Clay,) gave it his reluctant and most painful support. He would gladly have turned the bitter cup from his lips, but he felt it to be his duty to sustain the authority of the general government; and, after giving to the subject the most solemn and serious consideration, he felt himself constrained to sustain that measure. And he went along with the senator from Tennessee upon the principle, now denied by him, that the federal authority must maintain its dignity. He went upon the ground, now abandoned by the senator from Tennessee, that no state ought to array itself against the constitutional powers of this government.

How was the fact up to the period of 1829? The gentleman from Tennessee tells us the true policy of this government is to send these poor creatures beyond the Mississippi, and that there is no impediment in the obligations of subsisting treaties. Never, until the new light burst upon us, that hundreds of Indian treaties, made during a period of half a century, under almost every administration of the government, concluded and ratified with all the solemn forms of the constitution, and containing the most explicit guarantees and obligations of protection to the Indians, and of security to their possessions, were mere nullities, was it supposed competent to effect a compulsory removal of the Indians beyond the Mississippi. It is true, that the policy of removing them has been long entertained; was contemplated by Mr. Jefferson; but it was a free, voluntary, and unconstrained emigration. No one, until of late, ever dreamed of a forcible removal, against their consent, accomplished either by the direct application of military power, or by cruel and intolerable local legislation. He wished that they would voluntarily remove. He believed that absorption or extinction was the only alternative of their remaining in the bosom of the whites. But they were a part of the human race, as capable as we are of pleasure and pain, and invested with as indisputable a right as we have, to judge of and pursue their own happiness.

It is said, that annihilation is the destiny of the Indian race.

Perhaps it is, judging from the past. But shall we therefore hasten it? Death is the irreversible decree pronounced against the human race. Shall we accelerate its approach, because it is inevitable? No, sir. Let us treat with the utmost kindness, and the most perfect justice, the aborigines whom Providence has committed to our guardianship. Let us confer upon them, if we can, the inestimable blessings of christianity and civilization, and then, if they must sink beneath the progressive wave of civilized population, we are free from all reproach, and stand acquitted in the sight of God and man.

The senator from Tennessee has left the senate under the impression, no doubt unintentionally, that three other states had advanced as far as Georgia in the exercise of a jurisdiction over the Indians and their property. But if he, (Mr. Clay,) were rightly informed, this was far from correct. North Carolina had exercised no such jurisdiction. She had not touched a hair upon the head of any Indian. Tennessee had extended her laws to the Indian country, for the sole purpose of protecting the Indians, and punishing the white intruders. Her upright judges and tribunals concurred, unanimously, if he were rightly informed, in supporting the Indian rights. No state, he believed, but Georgia, had seized upon the Indian lands, and distributed them among the whites. From the commencement of our independence down to this time,

# ON THE CUMBERLAND ROAD BILL.

## IN THE SENATE OF THE UNITED STATES, FEBRUARY 11, 1835.

[THE Cumberland road is a national work, constructed under the authority of congress, commencing at Cumberland on the Potomac river in the state of Maryland, and extending west to the Ohio river at Wheeling; from whence it is to be continued, under the name of the national road, through Ohio, Indiana, Illinois, and Missouri, to Jefferson, the capital of the latter state. At the time when the compact with the state of Ohio was made by the United States, this road had become absolutely necessary for the purpose of securing an intercourse between the west and the east side of the Alleghany mountains. The first step to effect this, was taken in 1802, when Mr. Jefferson was president. Its completion to the Ohio river, was in a great measure owing to the exertions of Mr. Clay in the cause of internal improvement, at various periods during his congressional career. After the road had been made to Columbus, in the state of Ohio, the Ohio section had been given to and accepted by that state. At the session of congress in 1834, an appropriation of three hundred thousand dollars had been made for repairing the road, and on the present occasion a further sum of three hundred and forty thousand dollars was proposed for the purpose of putting the work in good condition, previously to its being surrendered to the states through which it passes. The bill to effect this object passed the senate by a vote of thirty-two to nine, after considerable discussion; Mr. Clay giving his views as follows.]

MR. CLAY remarked, that he would not have said a word then, but for the introduction in this discussion of collateral matters, not immediately connected with it. He meant to vote for the appropriation contained in the bill, and he should do so with pleasure, because, under all the circumstances of the case, he felt himself called upon by a sense of imperative necessity to yield his assent to the appropriation. The road would be abandoned, and all the expenditures which had heretofore been made upon it would have been entirely thrown away, unless they now succeeded in obtaining an appropriation to put the road in a state of repair. Now, he did not concur with the gentleman, (Mr. Ewing,) that Ohio could, as a matter of strict right, demand of the government to keep this road in repair. And why so? Because, by the terms of the compact, under the operation of which the road was made, there was a restricted and defined fund, set apart in order to accomplish that object. And that fund measured the obligation of the government. It had been, however, long since exhausted. There

was no obligation, then, on the part of the government, to keep the road in repair. But he was free to admit, that considerations of policy would prompt it to adopt that course, in order that an opportunity should be presented to the states to take it into their own hands.

The honorable senator from Pennsylvania felicitated himself on having, at a very early epoch, discovered the unconstitutionality of the general government's erecting toll-gates upon this road, and he voted against the first measure to carry that object into execution. He (Mr. Clay) must say, that, for himself, he thought the general government had a right to adopt that course which it deemed necessary for the preservation of a road which was made under its own authority. And as a legitimate consequence from the power of making a road, was derived the power of making an improvement on it. That was established; and, on that point he was sure the honorable gentleman did not differ from those who were in favor of establishing toll-gates at the period to which he had alluded. He would repeat, that, if the power to make a road were conceded, it followed, as a legitimate consequence from that power, that the general government had a right to preserve it. And, if the right to do so, there was no mode of preservation more fitting and suitable, than that which resulted from a moderate toll for keeping up the road, and thus continuing it for all time to come.

from Pennsylvania and the honorable senator from Massachusetts, in regard to the disposition that was to be made of this road.

What, he would ask, had been stated on all hands? That the Cumberland road was a great national object, in which all the people of the United States were interested and concerned; that we are interested in our corporate capacity, on account of the stake we possessed in the public domain, and that we were consequently benefited by that road; that the people of the west were interested in it, as a common thoroughfare to all places from one side of the country to the other. Now, what was the principle of the arrangement that had been entered into? It was this common object, this national object, this object in which the people of this country were interested; its care, its preservation, was to be confided to different states, having no special motive or interest in its preservation; and, therefore, not responsible for the consequences that might result. The people of Kentucky and Indiana, and of the states west of those states, as well as the people living on the eastern side of the mountains, were all interested in the use and occupation of this road, which, instead of being retained and kept under the control of that common government in which all had a share, their interest in it was to be confided to the local jurisdictions through which the road passed; and thus the states, generally, were to depend upon the manner in which they should perform their duties; upon those having no sympathy with them, having no regard for their interest, but left to do as they chose in regard to the preservation of this road.

He would say that the principle was fundamentally wrong. He protested against it; had done from the first, and did so again now. It was a great national object, and they might as well give the care of the mint to Pennsylvania, the protection of the breakwater, or of the public vessels in New York, Baltimore, and Philadelphia, to the respective legislatures of the states in which that property was situated, as give the care of a great national road, in which the whole people of the United States were concerned, to the care of a few states which were acknowledged to have no particular interest in it — states having so little interest in that great work, that they would not repair it when offered to their hands.

But, he said, he would vote for this appropriation; he was compelled to vote for it by the force of circumstances over which he had no control. He had seen, in reference to internal improvements, and other measures of a national character, not individuals, merely, but whole masses, entire communities, prostrating their own settled opinions, to which they had conformed for half a century, wheel to the right or the left, march this way or that, according as they saw high authority for it. And he saw that there was no way of preserving this great object, which afforded such vast facilities to the western states, no other mode of preserving it,

ut by a reluctant acquiescence in a course of policy, which *all*, at east, had not contributed to produce, but which was formed to perate on the country, and from which there lay no appeal.

Mr. Clay, in conclusion, again reiterated that he should vote for he appropriation in this bill, although very reluctantly, and with he protest, that the road in question, being the common property f the whole nation, and under the guardianship of the general government, ought not to be treacherously parted from by it, and ut into the hands of the local governments, who felt no interest in he matter.

# ON THE APPOINTING AND REMOVING POWER.

## IN THE SENATE OF THE UNITED STATES, FEBRUARY 18, 1835.

[In the course of a discussion on a bill relating to the power of appointing to and removal from office, as exercised by the president, Mr. Clay made the following speech, in which he denies the constitutionality of the unlimited power of removal from office, by the president, at his own will and pleasure, without the consent of the senate. Mr. Clay's views of the nature and consequences of this arbitrary power claimed and exercised by president Jackson, will be found interesting, as well as his allusions to the pecuniary troubles and distress, which he then predicted would follow from the acts of Jackson's administration — predictions painfully verified in the subsequent succession of disasters which have befallen the country.]

Mr. Clay thought it extremely fortunate that this subject of executive patronage came up, at this session, unincumbered by any collateral question. At the last session we had the removal of the deposits, the treasury report sustaining it, and the protest of the president against the resolution of the senate. The bank mingled itself in all our discussions, and the partisans of executive power availed themselves of the prejudices which had been artfully excited against that institution, to deceive and blind the people as to the enormity of executive pretensions. The bank has been doomed to destruction, and no one now thinks the recharter of it is practicable, or ought to be attempted. I fear, said Mr. Clay, that the people will have just and severe cause to regret its destruction. The administration of it was uncommonly able; and one is at a loss which most to admire, the imperturbable temper or the wisdom of its enlightened president. No country can possibly possess a better general currency than it supplied. The injurious consequences of the sacrifice of this valuable institution will soon be felt. There being no longer any sentinel at the head of our banking establishments to warn them, by its information and operations, of approaching danger, the local institutions, already multiplied to an alarming extent, and almost daily multiplying, in seasons of prosperity, will make free and unrestrained emissions. All the channels of circulation will become gorged. Property will rise extravagantly high, and, constantly looking up, the temptation to purchase will be irresistible. Inordinate speculation will ensue, debts will be freely contracted; and, when the season of adversity comes, as come it

must, the banks, acting without concert and without guide, obeying the law of self-preservation, will all at the same time call in their issues; the vast number will exaggerate the alarm, and general distress, wide-spread ruin, and an explosion of the whole banking system, or the establishment of a new bank of the United States, will be the ultimate effects.

We can now deliberately contemplate the vast expansion of executive power, under the present administration, free from embarrassment. And is there any real lover of civil liberty, who can behold it without great and just alarm? Take the doctrines of the protest, and the secretary's report together, and, instead of having a balanced government with three coördinate departments, we have but one power in the state. According to those papers, all the officers concerned in the administration of the laws are bound to obey the president. His will controls every branch of the administration. No matter that the law may have assigned to other officers of the government specifically defined duties; no matter that the theory of the constitution and the law supposes them bound to the discharge of those duties according to their own judgment, and under their own responsibility, and liable to impeachment for malfeasance; the will of the president, even in opposition to their own deliberate sense of their obligations, is to prevail, and expulsion from office is the penalty of disobedience! It has not, indeed,

which is responsibility. Responsibility is the vital principle of civil liberty, as irresponsibility is the vital principle of despotism. Free government can no more exist without this principle than animal life can be sustained without the presence of the atmosphere. But is not the president absolutely irresponsible in the exercise of this power? How can he be reached? By impeachment? It is a mockery.

It has been truly said, that the office was not made for the incumbent. Nor was it created for the incumbent of another office. In both, and in all cases, public offices are created for the public; and the people have a right to know why and wherefore one of their servants dismisses another. The abuses which have flowed, and are likely to flow from this power, if unchecked, are indescribable. How often have all of us witnessed the expulsion of the most faithful officers, of the highest character, and of the most undoubted probity, for no other imaginable reason, than difference in political sentiments? It begins in politics, and may end in religion. If a president should be inclined to fanaticism, and the power should not be regulated, what is to prevent the dismission of every officer who does not belong to his sect, or persuasion? He may, perhaps truly, say, if he does not dismiss him, that he has not his confidence. It was the cant language of Cromwell and his associates, when obnoxious individuals were in or proposed for office, that they could not *confide in them.* The tendency of this power is to revive the dark ages of feudalism, and to render every officer a feudatory. The bravest man in office, whose employment and bread depend upon the will of the president, will quail under the influence of the power of dismission. If opposed in sentiments to the administration, he will begin by silence, and finally will be goaded into partisanship.

The senator from New York, (Mr. Wright,) in analyzing the list of one hundred thousand, who are reported by the committee of patronage to draw money from the public treasury, contends that a large portion of them consists of the army, the navy, and revolutionary pensioners; and, paying a just compliment to their gallantry and patriotism, asks, if they will allow themselves to be instrumental in the destruction of the liberties of their country? It is very remarkable, that hitherto the power of dismission has not been applied to the army and navy, to which, from the nature of the service, it would seem to be more necessary than to those in civil places. But accumulation and concentration are the nature of all power, and especially of executive power. And it cannot be doubted, that, if the power of dismission, as now exercised, in regard to civil officers, is sanctioned and sustained by the people, it will, in the end, be extended to the army and navy. When so extended, it will produce its usual effect of subserviency, or if the present army and navy should be too stern and upright to be

moulded according to the pleasure of the executive, we are to recollect, that the individuals who compose them are not to live always, and may be succeeded by those who will be more pliant and yielding. But I would ask the senator what has been the effect of this tremendous power of dismission upon the classes of officers to which it has been applied? Upon the post-office, the land-office, and the custom-house? They constitute so many *corps d'armee*, ready to further on all occasions the executive views and wishes. They take the lead in primary assemblies, whenever it is deemed expedient to applaud or sound the praises of the administration, or to carry out its purposes in relation to the succession. We are assured, that a large majority of the recent convention at Columbus, in Ohio, to nominate the president's successor, were office-holders. And do you imagine that *they* would nominate any other than the president's known favorite?

The power of removal, as now exercised, is nowhere in the constitution expressly recognised. The only mode of displacing a public officer, for which it does provide, is by impeachment. But it has been argued, on this occasion, that it is a sovereign power, an inherent power, and an executive power; and, therefore, that it belongs to the president. Neither the premises nor the conclusion can be sustained. If they could be, the people of the United States have all along totally misconceived the nature of their government,

mean, by inherent power, such power as is exercised by the monarchs or chief magistrates of other countries? If that be their meaning, they should avow it.

It has been argued, that the power of removal from office is an executive power; that all executive power is vested in the president; and that he is to see that the laws are faithfully executed, which, it is contended, he cannot do, unless, at his pleasure, he may dismiss any subordinate officer.

The mere act of dismission or removal may be of an executive nature, but the judgment or sentence which precedes it is a function of a judicial, and not executive nature. Impeachments, which, as has been already observed, are the only mode of removal from office expressly provided for in the constitution, are to be tried by the senate, acting as a judicial tribunal. In England, and in all the states, they are tried by judicial tribunals. In several of the states, removal from office sometimes is effected by the legislative authority, as in the case of judges on the concurrence of two thirds of the members. The administration of the laws of the several states proceeds regularly, without the exercise on the part of the governors of any power similar to that which is claimed for the president. In Kentucky, and in other states, the governor has no power to remove sheriffs, collectors of the revenue, clerks of courts, or any one officer employed in administration; and yet the governor, like the president, is constitutionally enjoined to see that the laws are faithfully executed.

The clause relied upon to prove that all executive power is vested in the president, is the first section of the second article. On examining the constitution, we find that, according to its arrangement, it treats first of the legislative power, then of the executive, and lastly of the judicial power. In each instance, it provides how those powers shall be respectively vested. The legislative power is confided to a congress, and the constitution then directs how the members of the body shall be chosen, and, after having constituted the body, enumerates and carefully specifies its powers. And the same course is observed both with the executive and the judiciary. In neither case does the preliminary clause convey any power; but the powers of the several departments are to be sought for in the subsequent provisions. The legislative powers granted by the constitution are to be vested, how? In a congress What powers? Those which are enumerated. The executive power is to be vested, how? In a council, or in several? No, in *a* president of the United States of America. What executive power? That which is possessed by any chief magistrate, in any country, or that which speculative writers attribute to the executive head? No such thing. That power, and that only, which the constitution subsequently assigns to the chief magistrate.

The president is enjoined by the constitution to take care that

he laws be faithfully executed. Under this injunction, the power of dismission is claimed for him; and it is contended, that if those charged with the execution of the laws attempt to execute them in a sense different from that entertained by the president, he may prevent it, or withhold his coöperation. It would follow that, if the judiciary give to the law an interpretation variant from that of the president, he would not be bound to afford means which might become necessary to execute their decision. If these pretensions are well founded, it is manifest that the president, by means of the veto, in arresting the passage of laws which he disapproves, and the power of expounding those which are passed, according to his own sense of them, will become possessed of all the practical authority of the whole government. If the judiciary decide a law contrary to the president's opinion of its meaning, he may command the marshal not to execute the decision, and urge his constitutional obligation to take care that the laws be faithfully executed. It will be recollected, perhaps, by the senate, that, during the discussions on the deposit question, I predicted that the day would arrive when a president, disposed to enlarge his powers, would appeal to his official oath as a source of power. In that oath he undertakes that he will, 'to the best of his ability, preserve, protect, and defend the constitution of the United States.' The fulfilment of the prediction quickly followed; and during the same session, in the protest of the

imposes only upon the chief magistrate the duty of executing those laws with the execution of which he is specially charged; of supplying, when necessary, the means with which he is intrusted to enable others to execute those laws, the enforcement of which is confided to them; and to communicate to congress infractions of the laws, that the guilty may be brought to punishment, or the defects of legislation remedied. The most important branch of the government to the rights of the people, as it regards the mere execution of the laws, is the judiciary; and yet they hold their offices by a tenure beyond the reach of the president. Far from impairing the efficacy of any powers with which he is invested, this permanent character in the judicial office is supposed to give stability and independence to the administration of justice.

The power of removal from office not being one of those powers which are expressly granted and enumerated in the constitution, and having I hope successfully shown that it is not essentially of an executive nature, the question arises, to what department of the government does it belong, in regard to all offices created by law, or whose tenure is not defined in the constitution? There is much force in the argument which attaches the power of dismission to the president and senate conjointly, as the appointing power. But I think we must look for it to a broader and higher source; the legislative department. The duty of appointment may be performed under a law which enacts the mode of dismission. This is the case in the post-office department, the postmaster-general being invested with both the power of appointment and of dismission. But they are not necessarily allied, and the law might separate them; and assign to one functionary the right to appoint, and to a different one the right to dismiss. Examples of such a separation may be found in the state governments.

It is the legislative authority which creates the office, defines its duties, and may prescribe its duration. I speak, of course, of offices not created by the constitution, but the law. The office, coming into existence by the will of congress, the same will may provide how, and in what manner, the office and the officer shall both cease to exist. It may direct the conditions on which he shall hold the office, and when and how he shall be dismissed. Suppose the constitution had omitted to prescribe the tenure of the judicial office, could not congress do it? But the constitution has not fixed the tenure of any subordinate offices, and therefore congress may supply the omission. It would be unreasonable to contend that, although congress, in pursuit of the public good, brings the office and the officer into being, and assigns their purposes, yet the president has a control over the officer which congress cannot reach or regulate; and this control, in virtue of some vague and undefined implied executive power, which the friends of executive supremacy are totally unable to attach to any specific clause in the constitution!

It has been contended, with great ability, that, under the clause of ne constitution which declares, that congress shall have power 'to nake all laws, which shall be necessary and proper for carrying nto execution the foregoing powers, and *all others* vested by this onstitution in the government of the United States, *or in any epartment or officer thereof*,' congress is the sole depository of nplied powers, and that no other department or officer of the overnment possesses any. If this argument be correct, there is an nd of the controversy. But if the power of dismission be ncident to the legislative authority, congress has the clear right o regulate it. And if it belong to any other department of the overnment, under the cited clause, congress has the power to egislate upon the subject, and may regulate it, although it could ot divest the department altogether of the right.

Hitherto I have considered the question upon the ground of the onstitution, unaffected by precedent. We have in vain called pon our opponents to meet us upon that ground; and to point ut the clause of the constitution which by express grant, or necesary implication, subjects the will of the whole official corps to the leasure of the president, to be dismissed whenever he thinks roper, without any cause, and without any reasons publicly ssigned or avowed for the dismission, and which excludes ongress from all authority to legislate against the tremendous onsequences of such a vast power. No such clause has been

prior to the present, but under that of general Jackson the number of removals amounted to more than two thousand; of which some five or six hundred were postmasters.]

Precedents deliberately established by wise men are entitled to great weight. They are the evidence of truth, but *only* evidence. If the same rule of interpretation has been settled, by concurrent decisions, at different and distant periods, and by opposite dominant parties, it ought to be deemed binding, and not disturbed. But a solitary precedent, established, as this was, by an equal vote of one branch, and a powerful minority in the other, under the influence of a confidence never misplaced in an illustrious individual, and which has never been reëxamined, cannot be conclusive.

The first inquiry which suggests itself upon such a precedent as this is, brought forward by the friends of the administration, is, what right have they to the benefit of any precedent? The course of this administration has been marked by an utter and contemptuous disregard of all that had been previously done. Disdaining to move on in the beaten road carefully constructed by preceding administrations, and trampling upon every thing, it has seemed resolved to trace out for itself a new line of march. Then, let us inquire how this administration and its partisans dispose of precedents drawn from the same source, the first congress under the present constitution. If a precedent of that congress be sufficient authority to sustain an executive power, other precedents established by it, in support of legislative powers, must possess a like force. But do they admit this principle of equality? No such thing. They reject the precedents of the congress of 1789, sustaining the power of congress, and cling to that only which expands the executive authority. They go for prerogative, and they go against the rights of the people.

It was in the first congress that assembled in 1789, that the bank of the United States was established, the power to adopt a protective tariff was maintained, and the right was recognised to authorize internal improvements. And these several powers do not rest on the basis of a single precedent. They have been again and again affirmed, and reaffirmed by various congresses, at different and distant periods, under the administration of every dominant party; and, in regard to the bank, it has been sanctioned by every branch of the government, and by the people. Yet the same gentlemen, who console themselves with the precedent of 1789, in behalf of the executive prerogative, reject as unconstitutional all these legislative powers.

No one can carefully examine the debate in the house of representatives in 1789, without being struck with the superiority of the argument on the side of the minority, and the unsatisfactory nature of that of the majority. How various are the sources whence the power is derived! Scarcely any two of the majority agree in their

leduction of it. Never have I seen, from the pen or tongue of Mr. Madison, one of the majority, any thing so little persuasive or convincing. He assumes that all executive power is vested in the president. He does not qualify it; he does not limit it to that executive power which the constitution grants. He does not discriminate between executive power assigned by the constitution, and executive power enacted by law. He asks, if the senate had not been associated with the president in the appointing power, whether the president, in virtue of his executive power, would not have had the right to make all appointments? I think not; clearly not. It would have been a most sweeping and far-fetched implication. In the silence of the constitution, it would have devolved upon congress to provide by law for the mode of appointing to office; and that in virtue of the clause, to which I have already adverted, giving to congress power to pass all laws necessary and proper to carry on the government. He says, 'the danger, then, merely consists in this; the president can displace from office a man whose merits require that he should be continued in it. What will be the motives which the president can feel for such abuse of his power?' What motives! The pure heart of a Washington could have had none; the virtuous head of Madison could conceive none; but let him ask general Jackson, and he will tell him of motives enough. He will tell him, that he wishes his

believe would exist of his conviction by two thirds of the senate, comprising also members not particularly averse to lucrative offices, and where the spoils doctrine, long practiced in New York, was first boldly advanced in congress?

The next security was, that the president, after displacing the meritorious officer, could not appoint another person without the concurrence of the senate. If Mr. Madison had shown how, by any action of the senate, the meritorious officer could be replaced, there would have been some security. But the president has dismissed him; his office is vacant; the public service requires it to be filled, and the president nominates a successor. In considering this nomination, the president's partisans have contended that the senate is not at liberty to inquire how the vacancy was produced, but is limited to the single consideration of the fitness of the person nominated. But suppose the senate were to reject him, that would only leave the office still vacant, and would not reinstate the removed officer. The president would have no difficulty in nominating another, and another, until the patience of the senate, being completely exhausted, they would finally confirm the appointment. What I have supposed is not theory but actually matter of fact. How often within a few years past have the senate disapproved of removals from office, which they have been subsequently called upon to concur in filling? How often wearied in rejecting, have they approved of persons for office whom they never would have appointed? How often have members approved of bad appointments, fearing worse if they were rejected? If the powers of the senate were exercised by one man, he might oppose, in the matter of appointments, a more successful resistance to executive abuses. He might take the ground that, in cases of improper removal, he would persevere in the rejection of every person nominated, until the meritorious officer was reinstated. But the senate now consists of forty-eight members, nearly equally divided, one portion of which is ready to approve of all nominations; and of the other, some members conceive that they ought not to incur the responsibility of hazarding the continued vacancy of a necessary office, because the president may have abused his powers. There is then no security, not the slightest practical security, against abuses of the power of removal in the concurrence of the senate in appointment to office.

During the debate in 1789, Mr. Smith, of South Carolina, called for the clause of the constitution granting the power. He said, 'we are declaring a power in the president which may hereafter be greatly abused; for we are not always to expect a chief magistrate in whom such entire confidence can be placed, as the present. Perhaps gentlemen are so much dazzled with the splendor of the virtues of the present president, as not to be able to see into futurity. * * * * * We ought to contemplate

this power in the hands of an ambitious man, who might apply it to dangerous purposes. If we give this power to the president, he may from caprice remove the most worthy men from office; his will and pleasure will be the slight tenure by which the office is to be held, and of consequence you render the officer the mere state dependent, the abject slave of a person who may be disposed to abuse the confidence his fellow-citizens have placed in him.' Mr. Huntington said, 'if we have a vicious president who inclines to abuse this power, which God forbid, his responsibility will stand us in little stead.'

Mr. Gerry, afterwards the republican vice-president of the United States, contended, 'that we are making these officers the mere creatures of the president; they dare not exercise the privilege of their creation, if the president shall order them to forbear; because he holds their thread of life. His power will be sovereign over them, and will soon swallow up the small security we have in the senate's concurrence to the appointment; and we shall shortly need no other than the authority of the supreme executive officer, to nominate, appoint, continue, or remove.' Was not that prophecy; and do we not feel and know that it is prophecy *fulfilled?*

There were other members who saw clearly into the future, and predicted, with admirable forecast, what would be the practical operation of this power. But there was one eminently gifted in

Such is the solitary precedent on which the contemners of all precedents rely for sustaining this tremendous power in one man! A precedent established against the weight of argument, by a house of representatives greatly divided, in a senate equally divided, under the influence of a reverential attachment to the father of his country, upon the condition that, if the power were applied as we know it has been in hundreds of instances recently applied, the president himself would be justly liable to impeachment and removal from office, and which, until this administration, has never, since its adoption, been thoroughly examined or considered — a power, the abuses of which, as developed under this administration, if they be not checked and corrected, must inevitably tend to subvert the constitution, and overthrow public liberty. A standing army has been, in all free countries, a just object of jealousy and suspicion. But is not a corps of one hundred thousand dependents upon government, actuated by one spirit, obeying one will, and aiming at one end, more dangerous and formidable than a standing army? The standing army is separated from the mass of society, stationed in barracks or military quarters, and operates by physical force. The official corps is distributed and ramified throughout the whole country, dwelling in every city, village, and hamlet, having daily intercourse with society, and operates on public opinion. A brave people, not yet degenerated, and devoted to liberty, may successfully defend themselves against a military force. But if the official corps is aided by the executive, by the post-office department, and by a large portion of the public press, its power is invincible. That the operation of the principle, which subjects to the will of one man the tenure of all offices, which he may vacate at pleasure, without assigning any cause, must be to render them subservient to his purposes, a knowledge of human nature, and the short experience which we have had, clearly demonstrate.

It may be asked, why has this precedent of 1789 not been reviewed? Does not the long acquiescence in it prove its propriety? It has not been reëxamined for several reasons. In the first place, all feel and own the necessity of some more summary and less expensive and less dilatory mode of dismissing delinquents from subordinate offices, than that of impeachment, which, strictly speaking, was perhaps the only one in the contemplation of the framers of the constitution; certainly it is the only one for which it expressly provides. Then, under all the predecessors of the president, the power was mildly and beneficially exercised, having been always, or with very few exceptions, applied to actual delinquents. Notwithstanding all that has been said about the number of removals which were made during Mr. Jefferson's administration, they were, in fact, comparatively few. And yet he came into power as the head of a great party, which for years had

been systematically excluded from the executive patronage; a plea which cannot be urged in excuse for the present chief magistrate. It was reserved for him to act on the bold and daring principle of dismissing from office, those who had opposed his election; of dismissing from office for mere difference of opinion!

But it will be argued, that if the summary process of dismission be expedient in some cases, why take it away altogether? The bill under consideration does not disturb the power. By the usage of the government, not I think by the constitution, the president practically possesses the power to dismiss those who are unworthy of holding these offices. By no practice or usage but that which he himself has created, has he the power to dismiss meritorious officers only because they differ from him in politics. The principal object of the bill, is, to require the president, in cases of dismission, to communicate the reasons which have induced him to dismiss the officer; in other words, to make an arbitrary and despotic power a responsible power. It is not to be supposed that, if the president is bound publicly to state his reasons, that he would act from passion or caprice, or without any reason. He would be ashamed to avow that he discharged the officer because he opposed his election. And yet this mild regulation of the power is opposed by the friends of the administration! They think it unreasonable that the president should state his reasons. If he has none,

the same proposition, as one which I submitted to the consideration of the senate at its last session. Under this suspensory power, the president will be able to discharge all defaulters or delinquents; and it cannot be doubted that the senate will concur in all such dismissions. On the other hand, it will insure the integrity and independence of the officer, since he will feel that if he honestly and faithfully discharges his official duties, he cannot be displaced arbitrarily, or from mere caprice, or because he has independently exercised the elective franchise.

It is contended, that the president cannot see that the laws are faithfully executed unless he possesses the power of removal. That injunction of the constitution, imports a mere general superintendence, except where he is specially charged with the execution of a law. It is not necessary that he should have the power of dismission. It will be a sufficient security against the abuses of subordinate officers, that the eye of the president is upon them, and that he can communicate their delinquency. The state executives do not possess this power of dismission. In several, if not all, the states, the governor cannot even dismiss the secretary of state; yet we have heard no complaints of the inefficiency of state executives, or of the administration of the laws of the states. The president has no power to dismiss the judiciary; and it might be asked, with equal plausibility, how he could see that the laws are executed if the judges will not conform to his opinion, and he cannot dismiss them?

But it is not necessary to argue the general question, in considering either the original bill or the amendment. The former does not touch the power of dismission, and the latter only makes it conditional instead of being absolute.

It may be said, that there are certain great officers, heads of departments and foreign ministers, between whom and the president entire confidence should exist. That is admitted. But, surely, if the president remove any of them, the people ought to know the cause. The amendment, however, does not reach those classes of officers. And supposing, as I do, that the legislative authority is competent to regulate the exercise of the power of dismission, there can be no just cause to apprehend, that it will fail to make such modifications and exceptions as may be called for by the public interest; especially as whatever bill may be passed must obtain the approbation of the chief magistrate. And if it should attempt to impose improper restrictions upon the executive authority, that would furnish a legitimate occasion for the exercise of the veto. In conclusion, I shall most heartily vote for the bill, with or without the amendment which I have proposed.

# ON THE PUBLIC LANDS BILL.

## IN THE SENATE OF THE UNITED STATES, DECEMBER 29, 1835.

[NILES's Weekly Register of January second, 1836, makes the following appropriate remarks. 'We have the pleasure to present the able and beautiful speech of Mr Clay, on again presenting his bill to dispose of the proceeds of the public lands. What an immense good would grow out of the passage of that bill! His history of this bill is very *severe*, though stated in the mildest terms possible.' The bill offered by Mr. Clay at this session passed the senate, by a vote of twenty-five to twenty; but was laid on the table in the house, by one hundred and four to eighty-five.]

ALTHOUGH I find myself borne down by the severest affliction with which Providence has ever been pleased to visit me, I have thought that my private griefs ought not longer to prevent me from

that which was introduced in 1832. For one I should have been willing to have allowed the new states twelve and a half instead of ten per centum, but as that was objected to by the president, in his veto message, and has been opposed in other quarters, I thought it best to restrict the allowance to the more moderate sum. The bill also contains large and liberal grants of land to several of the new states, to place them upon an equality with others to which the bounty of congress has been heretofore extended, and provides that, when other new states shall be admitted into the union, they shall receive their share of the common fund.

The net amount of the sales of the public lands in the year 1833 was the sum of three million nine hundred and sixty-seven thousand six hundred and eighty-two dollars and fifty-five cents; in the year 1834 was four million eight hundred and fifty-seven thousand and six hundred dollars and sixty-nine cents; and in the year 1835, according to actual receipts in the three first quarters and an estimate of the fourth, is twelve million two hundred and twenty-two thousand one hundred and twenty-one dollars and fifteen cents; making an aggregate for the three years of twenty-one million forty-seven thousand four hundred and four dollars and thirty-nine cents. This aggregate is what the bill proposes to distribute and pay to the twenty-four states on the first day of May, 1836, upon the principles which I have stated. The difference between the estimate made by the secretary of the treasury and that which I have offered of the product of the last quarter of this year, arises from my having taken, as the probable sum, one third of the total amount of the three first quarters, and he some other conjectural sum. Deducting from the twenty-one million forty-seven thousand four hundred and four dollars and thirty-nine cents the fifteen per centum to which the seven new states, according to the bill, will be first entitled, amounting to two million six hundred and twelve thousand three hundred and fifty dollars and eighteen cents, there will remain for distribution among the twenty-four states of the union the sum of eighteen million four hundred and thirty-five thousand and fifty-four dollars and twenty-one cents. Of this sum the proportion of Kentucky will be nine hundred and sixty thousand nine hundred and forty-seven dollars and forty-one cents, of Virginia the sum of one million five hundred and eighty-one thousand six hundred and sixty-nine dollars and thirty-nine cents, of North Carolina nine hundred and eighty-eight thousand six hundred and thirty-two dollars and forty-two cents, and of Pennsylvania two million eighty-three thousand two hundred and thirty-three dollars and thirty-two cents. The proportion of Indiana, including the fifteen per centum, will be eight hundred and fifty-five thousand five hundred and eighty-eight dollars and twenty-three cents, of Ohio one million six hundred and seventy-seven thousand one hundred and ten dollars and eighty-four cents, and

of Mississippi nine hundred and fifty-eight thousand nine hundred and forty-five dollars and forty-two cents. And the proportions of all the twenty-four states are indicated in a table which I hold in my hand, prepared at my instance in the office of the secretary of the senate, and to which any senator may have access.* The grounds on which the extra allowance is made to the new states are, first, their complaint that all lands sold by the federal government are five years exempted from state taxation; secondly, that it is to be applied in such manner as will augment the value of the unsold public lands within them; and, lastly, their recent settlement.

It may be recollected that a bill passed both houses of congress, in the session which terminated on the third of March, 1833, for the distribution of the amount received from the public lands, upon the principles of that now offered. The president, in his message at the commencement of the previous session, had specially invited the attention of congress to the subject of the public lands; had adverted to their liberation from the pledge for the payment of the public debt; and had intimated his readiness to concur in any disposal of them which might appear to congress most conducive to the quiet, harmony, and general interest of the American people.

After such a message, the president's disapprobation of the bill could not have been anticipated. It was presented to him on the second of March, 1833. It was not returned as the constitution

requires, but was retained by him after the expiration of his official term, and until the next session of congress, which had no power to act upon it. It was understood and believed that, in anticipation of the passage of the bill, the president had prepared objections to it, which he had intended to return with his negative; but he did not. If the bill had been returned, there is reason to believe that it would have passed, notwithstanding those objections. In the house, it had been carried by a majority of more than two thirds. And, in the senate, although there was not the majority on its passage, it was supposed that, in consequence of the passage of the compromise bill, some of the senators who had voted against the land bill had changed their views, and would have voted for it upon its return, and others had left the senate.

There are those who believe that the bill was unconstitutionally retained by the president and is now the law of the land. But whether it be so or not, the general government holds the public domain in trust for the common benefit of all the states; and it is, therefore, competent to provide by law that the trustee shall make distribution of the proceeds of the three past years, as well as future years, among those entitled to the beneficial interest. The bill makes such a provision. And it is very remarkable, that the sum which it proposes to distribute is about the gross surplus, or balance, estimated in the treasury on the first of January, 1836. When the returns of the last quarter of the year come in, it will probably be found that the surplus is larger than the sum which the bill distributes. But if it should not be, there will remain the seven millions held in the bank of the United States, applicable, as far as it may be received, to the service of the ensuing year.

It would be premature now to enter into a consideration of the probable revenue of future years; but, at the proper time, I think it will not be difficult to show that, exclusive of what may be received from the public lands, it will be abundantly sufficient for all the economical purposes of government, in a time of peace. And the bill, as I have already stated, provides for seasons of war. I wish to guard against all misconception by repeating, what I have heretofore several times said, that this bill is not founded upon any notion of a power in congress to lay and collect taxes and distribute the amount among the several states. I think congress possesses no such power, and has no right to exercise it until such amendment as that proposed by the senator from South Carolina (Mr. Calhoun) shall be adopted. But the bill rests on the basis of a clear and comprehensive grant of power to congress over the territories and property of the United States in the constitution, and upon express stipulations in the deeds of session.

Mr. President, I have ever regarded, with feelings of the profoundest regret, the decision which the president of the United States felt himself induced to make on the bill of 1833. If it had

been his pleasure to approve it, the heads of departments would not now be taxing their ingenuity to find out useless objects of expenditures, or objects which may be well postponed to a more distant day. If the bill had passed, about twenty millions of dollars would have been, during the three last years, in the hands of the several states, applicable by them to the beneficent purposes of internal improvement, education, or colonization. What immense benefits might not have been diffused throughout the land by the active employment of that large sum? What new channels of commerce and communication might not have been opened? What industry stimulated, what labor rewarded? How many youthful minds might have received the blessings of education and knowledge, and been rescued from ignorance, vice, and ruin? How many descendants of Africa might have been transported from a country where they never can enjoy political or social equality, to the native land of their fathers, where no impediment exists to their attainment of the highest degree of elevation, intellectual, social, and political? Where they might have been successful instruments, in the hands of God, to spread the religion of his son, and to lay the foundations of civil liberty!

And, sir, when we institute a comparison between what might have been effected, and what has been in fact done, with that large amount of national treasure, our sensations of regret, on account of

wanting pecuniary aid as well as intelligent direction. The states have undertaken what the general government is prevented from accomplishing. They are strengthening the union by various lines of communication thrown across and through the mountains. New York has completed one great chain. Pennsylvania another, bolder in conception and far more arduous in the execution Virginia has a similar work in progress, worthy of all her enterprise and energy. A fourth further south, where the parts of the union are too loosely connected, has been projected, and it can certainly be executed with the supplies which this bill affords, and perhaps not without them.

This bill passed, and these and other similar undertakings completed, we may indulge the patriotic hope that our union will be bound by ties and interests that render it indissoluble. As the general government withholds all direct agency from these truly national works, and from all new objects of internal improvement, ought it not to yield to the states, what is their own, the amount received from the public lands? It would thus but execute faithfully a trust expressly created by the original deeds of cession, or resulting from the treaties of acquisition. With this ample resource, every desirable object of improvement, in every part of our extensive country, may, in due time, be accomplished. Placing this exhaustless fund in the hands of the several members of the confederacy, their common federal head may address them in the glowing language of the British bard, and

> 'Bid harbors open, public ways extend,
> Bid temples worthier of the God ascend.
> Bid the broad arch the dangerous flood contain,
> The mole projecting break the roaring main.
> Back to his bounds their subject sea command,
> And roll obedient rivers through the land.'

The affair of the public lands was forced upon me. In the session of 1831 and 1832 a motion from a quarter politically unfriendly to me, was made to refer it to the committee of manufactures, of which I was a member. I strenuously opposed the reference. I remonstrated, I protested, I entreated, I implored. It was in vain that I insisted that the committee on the public lands was the regular standing committee to which the reference should be made. It was in vain that I contended that the public lands and domestic manufactures were subjects absolutely incongruous. The unnatural alliance was ordered by the vote of a majority of the senate. I felt that a personal embarrassment was intended me. I felt that the design was to place in my hands a many-edged instrument, which I could not touch without being wounded. Nevertheless I subdued all my repugnance, and I engaged assiduously in the task which had been so unkindly assigned me. This, or a similar bill, was the offspring of my deliberations. When

reported, the report accompanying it was referred by the same majority of the senate to the very committee on the public lands to which I had unsuccessfully sought to have the subject originally assigned, for the avowed purpose of obtaining a counteracting report. But, in spite of all opposition, it passed the senate at that session. At the next, both houses of congress.

I confess, I feel anxious for the fate of this measure, less on account of any agency I have had in proposing it, as I hope and believe, than from a firm, sincere, and thorough conviction, that no one measure, ever presented to the councils of the nation, was fraught with so much unmixed good, and could exert such powerful and enduring influence in the preservation of the union itself, and upon some of its highest interests. If I can be instrumental, in any degree, in the adoption of it, I shall enjoy, in that retirement into which I hope shortly to enter, a heart-feeling satisfaction and a lasting consolation. I shall carry there no regrets, no complaints, no reproaches on my own account. When I look back upon my humble origin, left an orphan too young to have been conscious of a father's smiles and caresses, with a widowed mother, surrounded by a numerous offspring, in the midst of pecuniary embarrassments, without a regular education, without fortune, without friends, without patrons, I have reason to be satisfied with my public career. I ought to be thankful for the high

# ON OUR RELATIONS WITH FRANCE.

## IN THE SENATE OF THE UNITED STATES, JANUARY 11, 1836.

[At this session, the situation of affairs between the United States and France having become serious and alarming, Mr. Clay offered resolutions, calling upon the president for information, which, although generally known to the public, he had not then communicated to congress.]

It must be obvious to every observer of passing events, that our affairs with France are becoming every day more and more serious in their character, and are rapidly tending to a crisis. Mutual irritations are daily occurring, from the animadversions of the public press, and among individuals, in and out of office, in both countries. And a state of feeling, greatly to be deprecated, if we are to preserve the relations of peace, must certainly be the consequence.

According to the theory of our constitution, our diplomatic concerns with foreign countries are intrusted to the president of the United States, until they reach a certain point involving the question of peace or war, and then congress is to determine on that momentous question. In other words, the president conducts our foreign intercourse; congress alone can change that intercourse from a peaceable to a belligerent one. This right, to decide the question of war, carries along with it the right to know whatever has passed between our own executive and the government of any foreign power. No matter what may be the nature of the correspondence, whether official or not, whether formal or informal, congress has the right to any and all information whatever, which may be in the possession of the other branch of the government. No senator here could have failed to have been acquainted with the fact, that the contents of a most important despatch or document has been discussed, and a most important overture canvassed in the different newspapers, in private and political circles, by individuals; every body, in fact, knows what has taken place, except the congress of the United States. The papers friendly to the administration — indeed, the whole circle of the American press — are in possession of the contents of a paper which this

body has not been yet allowed to see; and I have one journal, a southern administration journal, before me, which states a new and important fact in reference to it. I have said that our situation with France grows every day more embarrassing; the aspect of our relations with her more and more dark and threatening. I could not, therefore, longer delay in making the following motion. I should have done so before, but for a prevalent rumor that the president would soon make a communication to congress, which would do away the necessity of the resolutions which I now submit, by laying before congress the information, which is the object of my motion. He has not, however, done so, and probably will not, without a call from the senate.

Mr. Clay then offered the following resolutions, which were adopted next day.

Resolved, that the president be requested to communicate to the senate (if it be not, in his opinion, incompatible with the public interest,) whether, since the termination of the last congress, any overture, formal or informal, official or unofficial, has been made by the French government to the executive of the United States, to accommodate the difficulties between the two governments, respecting the execution of the convention of the fourth day of July, 1831; and, particularly, whether a despatch from the duc de Broglie, the French minister of foreign affairs, to the *chargé d'affaires* at Washington, was read, and a copy of it furnished by him to the secretary of state, for the purpose of indicating a mode in which these difficulties might be removed.

Resolved, also, under the resolution above mentioned, in the event of any such overture having been made, that the president be requested to inform the senate what answer was given to it; and, if a copy of any such despatch was received, that he be

# ADMISSION OF ARKANSAS INTO THE UNION.

IN THE SENATE OF THE UNITED STATES, APRIL 11, 1836.

[NOTWITHSTANDING the compromise of the slavery quesiton, on the admission of Missouri into the union, many citizens of the northern states were opposed to the admission of Arkansas, agreeably to the terms of the compromise. Mr. Clay, how ever, adhered to his former opinions, as is shown in his remarks which follow.]

MR. CLAY rose to present several petitions which had come into his hands. They were signed by citizens of Philadelphia, many of whom were known to be of the first respectability, and the others were, no doubt, entitled to the highest consideration. The petitions were directed against the admission of Arkansas into the union, while there was a clause in her constitution prohibiting any future legislation for the abolition of slavery within her limits. He had felt considerable doubt as to the proper disposition which he should make of these petitions, while he wished to acquit himself of the duty intrusted to him. The bill for the admission of Arkansas had passed the senate, and gone to the other house. It was possible that it would be returned from that branch with an amendment, which would bring this subject into consideration. He wished the petitioners had selected some other organ. He did not concur in the prayer of the petitioners. He thought that Arkansas, and another state or territory south of forty degrees, had the entire right, according to the compromise made on the Missouri question, to frame its constitution, in reference to slavery, as it might think proper. He adhered to the opinions on this point which he held on a former memorable occasion, which would be in the recollection of senators. He would only ask that one of these memorials be read, and that the whole of them should then be laid on the table.

[Mr. King, of Alabama, expressed his regret that the senator from Kentucky had introduced these petitions, while a bill was pending in the other branch, in the progress of which it was probable that this question would be stirred. If the presentation of these petitions should bring up again the agitation which was produced by the discussion of the Missouri question, it would be difficult to predict the consequences which might ensue. When the Missouri question was under consideration, he acted with the senator from Kentucky, and agreed to give up certain rights of the

new states for the purpose of conciliation. But he would now say, that never again would he give up any thing for the purpose of conciliating another quarter of the country. He repeated his astonishment and concern, that the senator from Kentucky should have brought forward the petitions.]

Mr. Clay said he felt unaffected surprise at the expression of regret contained in the language of the senator from Alabama, as to the presentation of these petitions. I feel no regret. The subject of these petitions I do not approve, and I stated my disapprobation. I should have been happy, had the petitioners chosen another organ. I stated, further, that my opinions were unchanged. But these petitions have been committed to my care. In presenting them, I only performed a duty — a duty, in reference to petitions, of a constitutional, almost a sacred character. I have presented the petitions, but I have asked for no other action on them than the mere laying of them on the table, although I might have done so, as the bill is yet before the other branch. It is highly competent to the legislative authority to pass another bill, to control this clause in the constitution of Arkansas. I have asked no such thing. If the question should be stirred in the other branch, as seems to be apprehended by the senator from Alabama, it is better that the petitions are presented here. Here they are. I have merely performed a duty in presenting them; yet I am chided, chided at least in tone, by the senator from Alabama, for having

# ON THE FORTIFICATION BILL.

## IN THE SENATE OF THE UNITED STATES, JUNE 29, 1836.

[ In consequence of the threatening appearance of our affairs with France, which at one time rendered a war with that nation probable, congress, at the session of 1836, passed a bill making large appropriations for building and repairing fortifications on the Atlantic coast. Mr. Clay opposed the bill on account of the extravagant amount proposed to be appropriated, as is shown in the following brief remarks on the subject. ]

Mr. Clay thought there was no inconsistency between the two propositions to amend the bill as proposed by the senator from South Carolina, with the view of reducing the amount proposed for fortifications, and to amend it as proposed by the senator from Delaware, to restrain the issue of money from the public treasury, except as it should be called for in a course of regular disbursement. Both might be well adopted, and he hoped would be.

He had, however, risen more particularly for the purpose of calling the attention of the senate to the enormous and alarming amount of appropriations which had been actually made, or were in progress, during this session. He had procured from the secretary of the senate a statement of such as had been made by bills which had passed one or both houses up to the twenty-seventh of last month, when it amounted to about twenty-five millions. Since then, other bills had passed, which swelled it up to thirty-two or three millions; and other bills were now in progress, and would probably pass, carrying it up to forty millions, or beyond that sum. Forty millions of dollars in one year, when we have no debt, and no foreign war! Will not the country be justly alarmed, profoundly astonished, when it hears of these enormous appropriations? Is it possible to proceed with the government on such a scale of expenditure?

Why, sir, it is a greater amount than is appropriated to similar objects by the British parliament, since its reform, in one year. The whole revenue of Great Britain is about forty-two millions sterling, of which sum twenty-eight millions is applied to the public debt, six to the payment of pensions, annuities, and so forth,

and only about eight millions to the current annual expenses of the whole of their vast establishments, military and naval, and the civil government at home and abroad. Now, forty millions of dollars exceed eight millions sterling. Who would have supposed that an administration, which came in upon pledges and promises of retrenchment, reform, and economy, should, in the eighth year of its rule, have swelled the expenditure of the government to an amount exceeding that of Great Britain? And this surprise must be increased, when we reflect that the British parliament stands to the people of Great Britain in the double relation of the federal and state governments to the people of the United States.

When Mr. Adams left the administration, the current annual expenses of the government, exclusive of the public debt, amounted to about twelve millions. Only a few years ago, a secretary of the treasury under the present administration, (Mr. McLane,) estimated the ordinary expenses of the government at fifteen millions annually. Even during the present session, the able senator from New York, when the land bill was under discussion, placed them, for a series of succeeding years, at eighteen millions. And now we propose, in this year, to more than treble the amount of expenditure during the extravagant administration, as it was charged, of Mr. Adams!

Mr. Clay hoped the senate would pause. He called upon the

country, to be held in the deposit banks, one of which, according to a statement going the rounds of the papers, has made fourteen and a half per centum dividend for six months?

The annual average appropriations for fortifications heretofore, have been about seven hundred and fifty or eight hundred thousand dollars; and by the bill now before us, and that for a similar object which we have sent to the house, if both pass, we shall have appropriated for fortifications for one year, four millions and a half. Is it possible in one year judiciously to expend this enormous sum? When we look at the price of labor, the demands upon it for an increase of the army, for volunteers, and for the general avocations of society, does any body believe, that this vast sum can be judiciously laid out? It has been said, that, having omitted to make any appropriation last year, we ought this year to appropriate double the ordinary sum. But, if you cannot safely expend it, why should that be done? He was willing to make large and liberal appropriations for the navy and for fortifications; we ought, however, to look to all our great interests, and regulate the appropriations in reference to a survey of the whole country; and he earnestly entreated the senate to fulfil the hopes and expectations which had been recently inspired in the people of this country, by checking and putting itself decidedly against this rash, wild, and ruinous extravagance. He would vote for the commitment, to reduce the appropriations one half; after which there would remain an amount equal to double the ordinary annual appropriations, without including the sum in the bill now before the house.

# ON RECOGNISING THE INDEPENDENCE OF TEXAS.

## IN THE SENATE OF THE UNITED STATES, JULY 1, 1836.

[In March, 1836, a convention of forty-four delegates assembled at the town of Washington, in Texas, and made a formal declaration of independence and separation from the republic of Mexico. A previous declaration had been made by a few individuals in Texas, in December, 1835. On the twenty-first of April, 1836, a decisive battle was fought on the banks of the San Jacinto river, between the Texans and Mexicans, in which the latter were defeated, and president Santa Ana taken prisoner. An armistice was concluded in May, 1836, between Santa Ana and the president of Texas, Mr. Burnet, by which the former was released and sent home, and the Mexican troops evacuated the territory of Texas; Santa Ana agreeing not to take up arms, or to exercise his influence against Texas during the war of independence. Under these circumstances, a proposition was brought before congress to acknowledge the independence of Texas, when Mr. Clay expressed his sentiments as follows.

Mr. Preston made some remarks, in the course of which he stated, that he had with difficulty restrained himself from offering an amendment to recognise the independence of Texas immediately. He gave a brief narrative of the events of the

wish it to be adopted. The committee on foreign relations had reported a resolution, delaring that Texas ought to be recognised as an independent power, as soon as satisfactory information is acquired, that it has an established government in successful operation. The president states, in a message received in the senate subsequent to the report, that he has adopted measures to obtain that information. There is, therefore, an entire consistency between the resolution of the committee, the message of the president, and the proposed amendment, and he hoped it would be agreed to.

The senator from South Carolina, actuated by very natural and proper feelings, would be glad to propose a stronger measure, one of immediate recognition, but feels restrained by the dictates of his sober judgment. I, too, Mr. President, would be most happy, if the state of our information, and the course of events, were such as to warrant the adoption of that stronger measure. But I do not concur in the opinion which has been expressed, that the actual independence of Texas, by the overthrow or expulsion of the armies of Mexico, is the only consideration which should guide us in deciding the question of recognition. There is another, scarcely of less importance, and that is, whether there is in Texas a civil government in successful operation, competent to sustain the relations of an independent power. This is the very point on which we want information, and that respecting which the president is, we are given to understand, now endeavoring to obtain it. And, surely, considering how recently Texas has adopted a constitution of government, it is not unreasonable to wait a short time to see what its operation will be.

But there are other considerations which ought not to be overlooked by a wise and discreet government. We are told by the senator from South Carolina, that the vice-president of Texas is on his way to La Vera Cruz, to negotiate with the Mexican government a definitive treaty of peace between the two powers, and, consequently, an acknowledgment of the independence of Texas. This fact furnishes an additional motive on the part of the United States for forbearing, at present, to proceed to the formal acknowledgment of the independence of Texas. And how much more glorious will it not be for Texas herself, by her own valor, to force from her enemy the first acknowledgment of her independence?

We ought to discriminate between Santa Ana — the bloodthirsty vain-boasting, military tyrant, who has met in his overthrow and captivity a merited fate — and the eight millions of Mexicans, over whom he was exercising military sway. We should not allow the feelings of just indignation, which his conduct has excited, to transport us against the perhaps unoffending people whom he has controlled. We ought to recollect, that Mexico is our neighbor, having conterminous territory; that as long as we both

remain independent powers, we shall stand in that relation to her; that we are carrying on, by sea and by land, a commerce highly beneficial to both parties; and that it is the interest of both to cultivate the most amicable and harmonious intercourse. If we proceed precipitately, and prematurely, how will our conduct be regarded by Mexico? May we not lay the foundations of a lasting and injurious misunderstanding? If, indeed, Mexico delays unreasonably the acknowledgment of the independence of Texas, and resolves on the prosecution of the war, I should be far from thinking that the United States ought to postpone, to any distant day, the recognition of Texas, after the desired information is obtained. The senator from South Carolina has supposed it to be necessary to recognise Texas, in order to insure the execution of existing treaties with Mexico. So far as they affect Texas, she is as much bound by them, as if they had been negotiated under her express authority. For I suppose it to be incontestable, that a nation remains bound by all the treaties it has formed, however often it may think proper to change the form of its government; and that all the parts of a common nation also continue so bound, notwithstanding and after they shall have formed themselves into separate and independent powers.

Then there are other considerations, which recommend us to act on full information, and with due deliberation. It is undeniable,

has constantly guided our councils in regard to the acknowledgment of new powers, or new governments, and he has correctly stated it. But it would not be at all difficult, if it were proper to detain the senate, to show an essential difference between the present instance and the cases of France, of Spanish America, and of Greece, to which he has adverted. There is an obvious difference in the duration of the new governments, and the degree of information which we possess about them.

The senate, without the coöperation of the executive in some way, is incompetent to recognise Texas. The president tells us, in his message, that he has adopted measures to acquire necessary information to guide his judgment. We also want it. He cannot be justly accused of having delayed unreasonably to act. There is ground to believe, not only that Texas is independent, but that it has a government in practical operation. I sincerely hope it has; and that it has laid, on deep foundations, perfect securities for liberty, law, and order. In the mean time, every prudential consideration seems to me to require, that we should stop with the resolution and proposed amendment. Such appears to be the deliberate judgment of the senator himself. I sincerely, I most anxiously hope, that the desired information will be soon obtained by the executive; and that the feelings and wishes for the acknowledgment of the independence of Texas, which so generally prevail among our constituents, may be speedily gratified.

[After some further debate, the resolution was agreed to by a unanimous vote.]

# ON THE EXPUNGING RESOLUTION.

## IN THE SENATE OF THE UNITED STATES, JANUARY 16, 1837.

[On the twenty-eighth of March, 1834, the senate of the United States adopted, by a vote of twenty-six to twenty, the following resolution, which was offered by Mr. Clay, relative to the removal of the public deposits from the bank of the United States.

'Resolved, that the president, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both.'

This resolution Mr. Benton, of Missouri, in February, 1835, brought forward a motion to expunge from the journals of the senate; but that body, on the third of March, by a vote of thirty-nine to seven, refused to sustain the motion. Mr. Benton, however, continued to agitate the subject, and, at the session of 1836–7, the majority of the senate having been changed in favor of president Jackson, an expunging resolution was offered by Mr Benton, and, after an exciting debate, carried. On this occasion Mr. Clay addressed the senate in the following speech, which may be numbered among his most powerful efforts in the cause of the constitution, and the rights of the legislative against executive power.]

is unanswerable. And I here, in my place, in the presence of my country and my God, after the fullest consideration and deliberation of which my mind is capable, reassert my solemn conviction of the truth of every proposition contained in that resolution. But whilst it is not my intention to commit such an infliction upon the senate as that would be, of retracing the whole ground of argument formerly occupied, I desire to lay before it at this time, a brief and true state of the case. Before the fatal step is taken, of giving to the expunging resolution the sanction of the American senate, I wish, by presenting a faithful outline of the real questions involved in the resolution of 1834, to make a last, even if it is to be an ineffectual appeal, to the sober judgments of senators. I begin by reasserting the truth of that resolution.

Our British ancestors understood perfectly well the immense importance of the money power in a representative government. It is the great lever by which the crown is touched, and made to conform its administration to the interests of the kingdom, and the will of the people. Deprive parliament of the power of freely granting or withholding supplies, and surrender to the king the purse of the nation, he instantly becomes an absolute monarch. Whatever may be the form of government, elective or hereditary, democratic or despotic, that person who commands the force of the nation, and at the same time has uncontrolled possession of the purse of the nation, has absolute power, whatever may be the official name by which he is called.

Our immediate ancestors, profiting by the lessons on civil liberty, which had been taught in the country from which we sprung, endeavored to encircle around the public purse, in the hands of congress, every possible security against the intrusion of the executive. With this view, congress alone is invested by the constitution with the power to lay and *collect* the taxes. When collected, not a cent is to be drawn from the public treasury, but in virtue of an act of congress. And among the first acts of this government, was the passage of a law establishing the treasury department, for the safe keeping and the legal and regular disbursement of the money so collected. By that act a secretary of the treasury is placed at the head of the department; and varying in respect from all the other departments, he is to report, not to the president, but directly to congress, and is liable to be called to give information in person before congress. It is impossible to examine dispassionately that act, without coming to the conclusion that he is emphatically the agent of congress in performing the duties assigned by the constitution of congress. The act further provides that a treasurer shall be appointed to receive and keep the public money, and none can be drawn from his custody but under the authority of a law, and in virtue of a warrant drawn by the secretary of the treasury, countersigned by the comptroller, and recorded

by the register. Only when such a warrant is presented can the treasurer lawfully pay one dollar from the public purse. Why was the concurrence of these four officers required in disbursements of the public money? Was it not for greater security? Was it not intended that each, exercising a separate and independent will, should be a check upon every other? Was it not the purpose of the law to consider each of these four officers, acting in his proper sphere, not as a mere automaton, but as an intellectual, intelligent, and responsible person, bound to observe the law, and to stop the warrant, or stop the money, if the authority of the law were wanting?

Thus stood the treasury from 1789 to 1816. During that long time no president had ever attempted to interfere with the custody of the public purse. It remained where the law placed it, undisturbed, and every chief magistrate, including the father of his country, respected the law.

In 1816 an act passed to establish the late bank of the United States for the term of twenty years; and, by the sixteenth section of the act, it is enacted,

'That the deposits of the money of the United States in places in which the said bank and the branches thereof may be established, shall be made in said bank or branches thereof, unless the secretary of the treasury shall at any time otherwise order and direct; in which case the secretary of the treasury shall immediately lay before congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction.'

was probably made in consequence of suspicions then afloat of a design on the part of the executive to remove the deposits. These suspicions were denied by the press friendly to the administration. Nevertheless, the members had scarcely reached their respective homes, before measures were commenced by the executive to effect a removal of the deposits from that very place of safety which it was among the last acts of the house to declare existed in the bank of the United States.

In prosecution of this design, Mr. McLane, the secretary of the treasury, who was decidedly opposed to such a measure, was promoted to the department of state, and Mr. Duane was appointed to succeed him. But Mr. Duane was equally convinced with his predecessor, that he was forbidden by every consideration of duty to execute the power with which the law had intrusted the secretary of the treasury, and refused to remove the deposits; whereupon he was dismissed from office, a new secretary of the treasury was appointed, and, in September, 1833, by the command of the president, the measure was finally accomplished. That it was the president's act was never denied, but proclaimed, boasted, defended. It fell upon the country like a thunderbolt, agitating the union from one extremity to the other. The stoutest adherents of the administration were alarmed; and all thinking men, not blinded by party prejudice, beheld in the act a bold and dangerous exercise of power; and no human sagacity can now foresee the tremendous consequences which will ensue. The measure was adopted not long before the approaching session of congress; and, as the concurrence of both branches might be necessary to compel a restoration of the deposits, the object was to take the chance of a possible division between them, and thereby defeat the restoration.

And where did the president find the power for this most extraordinary act? It has been seen that the constitution, jealous of all executive interference with the treasury of the nation, had confined it to the exclusive care of congress by every precautionary guard, from the first imposition of the taxes to the final disbursement of the public money.

It has been seen that the language of the sixteenth section of the law of 1816 is express and free from all ambiguity; and that the secretary of the treasury is the sole, exclusive depository of the authority which it confers.

Those who maintain the power of the president, have to support it against the positive language of the constitution, against the explicit words of the statute, and against the genius and theory of all our institutions.

And how do they surmount these insuperable obstacles? By a series of far-fetched implications, which, if every one of them were as true as they are believed to be incorrect or perverted, would stop far short of maintaining the power which was exercised.

The first of these implied powers is, that of dismissal, which is claimed for the president. Of all the questioned powers ever exercised by the government, this is the most questionable. From the first congress down to the present administration, it had never been examined. It was carried then, in the senate, by the casting vote of the vice-president. And those who, at that day, argued in behalf of the power, contended for it upon conditions which have been utterly disregarded by the present chief magistrate. The power of dismissal is nowhere in the constitution granted, in express terms, to the president. It is not a necessary incident to any granted power; and the friends of the power have never been able to agree among themselves as to the precise part of the constitution from which it springs.

But, if the power of dismissal was as incontestable as it is justly controvertible, we utterly deny the consequences deduced from it. The argument is, that the president has, by implication, the power of dismissal. From this first implication, another is drawn, and that is, that the president has the power to control the officer, whom he may dismiss, in the discharge of his duties, in all cases whatever; and that this power of control is so comprehensive as to include even the case of a specific duty expressly assigned by law to the designated officer.

Now, we deny these results from the dismissing power. That

of the deposits, and a refusal of the secretary of the treasury to remove them; and it is triumphantly asked if, in such a case, the president may not remove him, and command the deed to be done. That is an extreme case, which may be met by another. Suppose the president, without any necessity, orders the removal from a place of safety to a place of hazard. If there be danger that a president may neglect his duty, there is equal danger that a president may abuse his authority. Infallibility is not a human attribute. And there is more security for the public in holding the secretary of the treasury to the strict performance of an official duty specially assigned *to him*, under all his official responsibility, than to allow the president to wrest the work from his hands, annihilate his responsibility, and stand himself practically irresponsible. It is far better that millions should be lost by the neglect of a secretary of the treasury, than to establish the monstrous principle that all the checks and balances of the executive government shall be broken down, the whole power absorbed by one man, and his will become the supreme rule. The argument which I am combating places the whole treasury of the nation at the mercy of the executive. It is in vain to talk of appropriations by law, and the formalities of warrants upon the treasury. Assuming the argument to be correct, what is to prevent the execution of an order from the president to the secretary of the treasury to issue a warrant, without the sanction of a previous legal appropriation, to the comptroller to countersign it, to the register to register it, and to the treasurer to pay it? What becomes of that quadruple security which the precaution of the law provided? Instead of four substantive and independent wills, acting under legal obligations, all are merged in the executive voters.

But there was in point of fact, no cause, none whatever for the measure. Every fiscal consideration, (and no other had the secretary or the president a right to entertain,) required the deposits to be left undisturbed in the place of perfect safety where by law they were. We told you so at the time. We asserted that the charges of insecurity and insolvency of the bank were without the slightest foundation. And time, that great arbiter of human controversies, has confirmed all that we said. The bank, from documents submitted to congress by the secretary of the treasury at the present session, appears to be able not only to return every dollar of the stock held in its capital by the public, but an addition of eleven per centum beyond it.

Those who defend the executive act, have to maintain not only that the president may assume upon himself the discharge of a duty especially assigned to the secretary of the treasury, but that he may remove that officer, arbitrarily, and without any cause, because he refused to remove the public deposits without cause.

My mind conducts me to a totally different conclusion. I think, I solemnly believe, that the president 'assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both,' in the language of the resolution. I believed then in the truth of the resolution; and I now in my place, and under all my responsibility, reavow my unshaken conviction of it.

But it has been contended on this occasion, as it was in the debate which preceded the adoption of the resolution of 1834, that the senate has no right to express the truth on any question which by possibility, may become a subject of impeachment. It is manifest, that if it may, there is no more usual or appropriate form in which it may be done than that of resolutions, joint or separate, orders, or bills. In no other mode can the collective sense of the body be expressed. But *senators* maintain, that no matter what may be the executive encroachment upon the joint powers of the two houses, or the separate authority of the senate, it is bound to stand mute, and not breathe one word of complaint or remonstrance. According to the argument, the greater the violation of the constitution or the law, the greater the incompetency of the senate to express any opinion upon it! Further, that this incompetency is not confined to the acts of the president only, but extends to those of every officer who is liable to impeachment under the constitution. Is this possible? Can it be true? Contrary to all

The senate acts in three characters, legislative, executive, and judicial; and their importance is in the order enumerated. By far the most important of the three is its legislative. In that, almost every day that it has been in session, from 1789 to the present time, some legislative business has been transacted; whilst in its judicial character, it has not sat more than three or four times in that whole period.

Why should the judicial function limit and restrain the legislative function of the senate, more than the legislative should the judicial? If the degree of importance of the two should decide which ought to impose the restraint, in cases of conflict between them, none can doubt which it should be.

But if the argument is sound, how is it possible for the senate to perform its legislative duties? An act in violation of the constitution or laws is committed by the president or a subordinate executive officer, and it becomes necessary to correct it by the passage of a law. The very act of the president in question was under a law to which the senate had given its concurrence. According to the argument, the correcting law cannot originate in the senate, because it would have to pass in judgment upon that act. Nay, more, it cannot originate in the house, and be sent to the senate, for the same reason of incompetency in the senate to pass upon it. Suppose the bill contained a preamble reciting the unconstitutional or illegal act, to which the legislative corrective is applied; according to the argument, the senate must not think of passing it. Pushed to its legitimate consequence, the argument requires the house of representatives itself cautiously to abstain from the expression of any opinion upon an executive act, except when it is acting as the grand inquest of the nation, and considering articles of impeachment.

Assuming that the argument is well founded, the senate is equally restrained from expressing any opinion, which would imply the innocence or the guilt of an impeachable officer, unless it be maintained, that it is lawful to express praise and approbation, but not censure or difference of opinion. Instances have occurred in our past history, (the case of the British minister, Jackson, was a memorable one,) and many others may arise in our future progress, when in reference to foreign powers, it may be important for congress to approve what has been done by the executive, to present a firm and united front, and to pledge the country to stand by and support him. May it not do that? If the senate dare not entertain and express any opinion upon an executive measure, how do those who support this expunging resolution justify the acquittal of the president, which it proclaims?

No senator believed in 1834, that, whether the president merited impeachment or not, he ever would be impeached. In point of fact he has not been, and we have every reason to suppose, that he

never will be impeached. Was the majority of the senate, in a case where it believed the constitution and laws to have been violated, and the liberties of the people to be endangered, to remain silent, and to refrain from proclaiming the truth, because, against all human probability, the president might be impeached by a majority of his political friends in the house of representatives?

If an impeachment had been actually voted by the house of representatives, there is nothing in the constitution which enjoins silence on the part of the senate. In such a case, it would have been a matter of propriety for the consideration of each senator to avoid the expression of any opinion on a matter upon which, as a sworn judge, he would be called to act.

Hitherto I have considered the question on the supposition, that the resolution of March, 1834, implied such guilt in the president, that he would have been liable to conviction on a trial by impeachment before the senate of the United States. But the resolution, in fact, imported no such guilt. It simply affirmed, that he had 'assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both.' It imputed no criminal motives. It did not profess to penetrate into the heart of the president. According to the phraseology of the resolution, the exceptionable act might have been performed with the purest and most patriotic intention. The resolution neither affirmed his inno-

the senate of 1837, a component part of another congress, to pronounce judgment upon its predecessor? How can you, who venture to impute to those who have gone before you an unconstitutional proceeding, escape a similar imputation? What part of the constitution communicates to you any authority to assign and try your predecessors? In what article is contained your power to expunge what they have done? And may not the precedent lead to a perpetual code of defacement and restoration of the transactions of the senate, as consigned to the public records?

Are you not only destitute of all authority, but positively forbidden to do what the expunging resolution proposes? The injunction of the constitution to keep a journal of our proceedings is clear, express, and emphatic. It is free from ambiguity; no sophistry can pervert the explicit language of the instrument; no artful device can elude the force of the obligation which it imposes. If it were possible to make more manifest the duty which it requires to be performed, that was done by the able and eloquent speeches, at the last session, of the senators from Virginia and Louisiana, (Messrs. Leigh and Porter,) and at this of my colleague. I shall not repeat the argument. But I would ask, if there were no constitutional requirement to keep a journal, what constitutional right has the senate of this congress to pass in judgment upon the senate of another congress, and to expunge from its journal a deliberate act there recorded? Can an unconstitutional act of that senate, supposing it to be so, justify you in performing another unconstitutional act?

But, in lieu of any argument upon the point from me, I beg leave to cite for the consideration of the senate two precedents; one drawn from the reign of the most despotic monarch in modern Europe, under the most despotic minister that ever bore sway over any people; and the other from the purest fountain of democracy in this country. I quote from the interesting life of the cardinal Richelieu, written by that most admirable and popular author, Mr. James. The duke of Orleans, the brother of Louis XIII, had been goaded into rebellion by the wary Richelieu. The king issued a decree declaring all the supporters of the duke guilty of high treason, and a copy of it was despatched to the parliament at Paris, with an order to register it at once. The parliament demurred, and proceeded to what was called an *arret de partage.*

'Richelieu, however, could bear no contradiction in the course which he had laid down for himself;' [how strong a resemblance does that feature of his character bear to one of an illustrious individual whom I will not further describe!] 'and hurrying back to Paris with the king, he sent, in the monarch's name, a command for the members of the parliament to present themselves at the Louvre in a body, and *on foot.* He was obeyed immediately; and the king receiving them with great haughtiness, the keeper of the seals made them a speech, in which he declared that they had no authority to deliberate upon affairs of state; that the business of private individuals they might discuss, but that the will of the monarch in other matters they were alone called upon to register. *The king then tore with his own hands the page of the*

*register on which the arret de partage had been inscribed, and punished with suspension from their functions several of the members of the various courts composing the parliament of Paris.*'

How repeated acts of the exercise of arbitrary power are likely to subdue the spirit of liberty, and to render callous the public sensibility, and the fate which awaits us, if we had not been recently unhappily taught in this country, we may learn from the same author.

'The finances of the state were exhausted, new impositions were devised, and a number of new offices created and sold. Against the last-named abuse the parliament ventured to remonstrate; but the government of the cardinal had for its first principle despotism, and the refractory members were punished, some with exile, some with suspension of their functions. All were forced to comply with his will, and the parliament, unable to resist, yielded, step by step, to his exactions.'

The other precedent is suspended by the archives of the democracy of Pennsylvania, in 1816, when it was genuine and unmixed with any other ingredient.

The provisions of the constitution of the United States and of Pennsylvania, in regard to the obligation to keep a journal, are substantially the same. That of the United States requires that

'Each house shall keep a journal of its proceedings, and from time to time publish the same, except such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of the members present, be entered on the journal.'

The senate observes, that the question arose in a case where the yeas and nays had not been called. Even in such a case, there were but four members, out of eighty-two, who thought it was competent to the house to expunge. Had the yeas and nays been called and recorded, as they were on the resolution of March, 1834, there would not have been a solitary vote in the house of representatives of Pennsylvania in support of the power of expunging. And if you can expunge the resolution, why may you not expunge also the recorded yeas and nays attached to it?

But if the matter of expunction be contrary to the truth of the case, reproachful for its base subserviency, derogatory to the just and necessary powers of the senate, and repugnant to the constitution of the United States, the manner in which it is proposed to accomplish this dark deed is also highly exceptionable. The expunging resolution, which is to blot out or enshroud the four or five lines in which the resolution of 1834 stands recorded, or rather the recitals by which it is preceded, are spun out into a thread of enormous length. It runs, whereas, and whereas, and whereas, and whereas, and so forth, into a formidable array of nine several whereases. One who should have the courage to begin to read them, unaware of what was to be their termination, would think that at the end of such a tremendous display he must find the very devil. It is like a kite or a comet, except that the order of nature is inverted, and the tail, instead of being behind, is before the body to which it is appended.

I shall not trespass on the senate by inquiring into the truth of all the assertions of fact and of principle, contained in these recitals. It would not be difficult to expose them all, and to show that not one of them has more than a colorable foundation. It is asserted by one of them, that the president was put upon his trial and condemned, unheard, by the senate, in 1834. Was that true? Was it a trial? Can the majority now assert, upon their oaths, and in their consciences, that there was any trial or condemnation? During the warmth of debate, senators might endeavor to persuade themselves and the public, that the proceeding of 1834 was, in its effects and consequences, a trial, and would be a condemnation of the president; but now, after the lapse of nearly three years, when the excitement arising from an animated discussion has passed away, it is marvellous that any one should be prepared to assert, that an expression of the opinion of the senate upon the character of an executive act was an arraignment, trial, and conviction of the president of the United States.

Another fact, asserted in one of those recitals, is, that the resolution of 1834, in either of the forms in which it was originally presented, or subsequently modified prior to the final shape which it assumed when adopted, would have been rejected by a majority of the senate. What evidence is there in support of this assertion?

None. It is, I verily believe, directly contrary to the fact. In either of the modifications of the resolution, I have not a doubt, that it would have passed! They were all made in that spirit of accommodation by which the mover of the resolution has ever regulated his conduct as a member of a deliberative body. In not one single instance did he understand from any senator at whose request he made the modification, that, without it, he would vote against the resolution. How, then, can even the senators, who were of the minority of 1834, undertake to make the assertion in question? How can the new senators, who have come here since, pledge themselves to the fact asserted, in the recital of which they could not have had any connusance? But all the members of the majority; the veterans and the raw recruits — the six years men and six weeks men — are required to concur in this most unfounded assertion, as I believe it to be. I submit it to one of the latter, (looking toward Mr. Dana, from Maine, here by a temporary appointment from the executive,) whether, instead of inundating the senate with a torrent of fulsome and revolting adulation poured on the president, it would not be wiser and more patriotic to illustrate the brief period of his senatorial existence by some great measure, fraught with general benefit to the whole union? Or, if he will not or cannot elevate himself to a view of the interest of the entire country, whether he had not better dedicate his time to an investigation into

principles which he has introduced, and innovations which he has made in our institutions, alas! but too much countenanced by congress and a confiding people, he exercises uncontrolled the power of the state. In one hand he holds the purse, and in the other brandishes the sword of the country. Myriads of dependents and partisans, scattered over the land, are ever ready to sing hosannas to him, and to laud to the skies whatever he does. He has swept over the government, during the last eight years, like a tropical tornado. Every department exhibits traces of the ravages of the storm. Take, as one example, the bank of the United States. No institution could have been more popular with the people, with congress, and with state legislatures. None ever better fulfilled the great purposes of its establishment. But it unfortunately incurred the displeasure of the president; he spoke, and the bank lies prostrate. And those who were loudest in its praise are now loudest in its condemnation. What object of his ambition is unsatisfied? When disabled from age any longer to hold the sceptre of power, he designates his successor, and transmits it to his favorite. What more does he want? Must we blot, deface, and mutilate the records of the country to punish the presumptuousness of expressing an opinion contrary to his own?

What patriotic purpose is to be accomplished by this expunging resolution? Can you make that not to be which has been? Can you eradicate from memory and from history the fact, that in March, 1834, a majority of the senate of the United States passed the resolution which excites your enmity? Is it your vain and wicked object to arrogate to yourselves that power of annihilating the past which has been denied to omnipotence itself? Do you intend to thrust your hands into our hearts, and to pluck out the deeply-rooted convictions which are there? or is it your design merely to stigmatize us? You cannot stigmatize us.

'Ne'er yet did base dishonor blur our name.'

Standing securely upon our conscious rectitude, and bearing aloft the shield of the constitution of our country, your puny efforts are impotent, and we defy all your power. Put the majority of 1834 in one scale, and that by which this expunging resolution is to be carried in the other, and let truth and justice, in heaven above and on the earth below, and liberty and patriotism decide the preponderance.

What patriotic purpose is to be accomplished by this expunging? Is it to appease the wrath, and to heal the wounded pride, of the chief magistrate? If he be really the hero that his friends represent him, he must despise all mean condescension, all grovelling sycophancy, all self-degradation, and self-abasement. He would reject with scorn and contempt, as unworthy of his fame, your

black scratches, and your baby lines in the fair records of his country. Black lines! Black lines! Sir, I hope the secretary of the senate will preserve the pen with which he may inscribe them, and present it to that senator of the majority whom he may select, as a proud trophy, to be transmitted to his descendants. And hereafter, when we shall lose the forms of our free institutions, all that now remain to us, some future American monarch, in gratitude to those by whose means he has been enabled, upon the ruins of civil liberty, to erect a throne, and to commemorate especially this expunging resolution, may institute a new order of knighthood, and confer on it the appropriate name of the knight of the black lines.

But why should I detain the senate or needlessly waste my breath in fruitless exertions. The decree has gone forth. It is one of urgency, too. The deed is to be done; that foul deed, like the blood-stained hands of the guilty Macbeth, all ocean's waters will never wash out. Proceed, then, to the noble work which lies before you, and like other skilful executioners, do it quickly. And when you have perpetrated it, go home to the people, and tell them what glorious honors you have achieved for our common country. Tell them that you have extinguished one of the brightest and purest lights that ever burned at the altar of civil liberty. Tell them that you have silenced one of the noblest batteries that ever thundered in defence of the constitution, and bravely spiked the

# ON THE SUB-TREASURY BILL.

## IN THE SENATE OF THE UNITED STATES, SEPTEMBER 25, 1837.

[AFTER the removal of the public deposits from the bank of the United States, by order of president Jackson, in October, 1833, the revenues were collected and disbursed through certain state banks, selected by the secretary of the treasury. In the month of May, 1837, the pressure upon the banks was so great, from a variety of causes, that a general suspension of specie payments took place. In this state of things, Mr. Van Buren, who succeeded general Jackson as president, in March, 1837, issued a proclamation, calling an extra session of congress, to meet on the first Monday in September. In his message to that body, which contained a majority favorable to his administration, he recommended the adoption of a system of finance, in collecting and disbursing the revenue of the nation, in gold and silver, which was called by its supporters, 'the *Independent Treasury*,' and by its opponents, 'the *Sub-Treasury*.' The system had been before proposed in congress, by Mr. Gordon, of Virginia, and rejected, the friends of Mr. Van Buren at that time generally voting against it. On the present occasion, Mr. Clay delivered his sentiments on this novel project, in the following remarks; a bill having been introduced by Mr. Wright, chairman of the committee on finance, embodying the system referred to, which was not finally adopted, until near the close of Mr. Van Buren's administration.]

FEELING an anxious desire to see some effectual plan presented, to correct the disorders in the currency, and to restore the prosperity of the country, I have avoided precipitating myself into the debate now in progress, that I may attentively examine every remedy that may be proposed, and impartially weigh every consideration urged in its support. No period has ever existed in this country, in which the future was covered by a darker, denser, or more impenetrable gloom. None, in which the duty was more imperative to discard all passion and prejudice, all party ties, and previous bias, and look exclusively to the good of our afflicted country. In one respect, and I think it a fortunate one, our present difficulties are distinguishable from former domestic trouble, and that is their universality. They are felt, it is true, in different degrees, but they reach every section, every state, every interest, almost every man in the union. All feel, see, hear, know their existence. As they do not array, like our former divisions, one portion of the confederacy against another, it is to be hoped that common sufferings may lead to common sympathies and common counsels, and that we shall, at no distant day, be able to see a clear way of deliverance. If the present state of the country were produced by the fault of the

people; if it proceeded from their wasteful extravagance, and their indulgence of a reckless spirit of ruinous speculation; if public measures had no agency whatever in bringing it about; it would, nevertheless, be the duty of government to exert all its energies, and to employ all its legitimate powers, to devise an efficacious remedy. But if our present deplorable condition has sprung from our rulers; if it is to be clearly traced to their acts and operations, that duty becomes infinitely more obligatory; and government would be faithless to the highest and most solemn of human trusts should it neglect to perform it. And is it not too true, that the evils which surround us are to be ascribed to those who have had the conduct of our public affairs?

In glancing at the past, nothing can be further from my intention than to excite angry feelings, or to find grounds of reproach. It would be far more congenial to my wishes, that, on this occasion, we should forget all former unhappy divisions and animosities. But in order to discover how to get out of our difficulties, we must ascertain if we can, how we got into them.

Prior to that series of unfortunate measures which had for its object the overthrow of the bank of the United States, and the discontinuance of its fiscal agency for the government, no people upon earth ever enjoyed a better currency, or had exchanges better regulated, than the people of the United States. Our monetary

The president's message asserts that the suspension has proceeded om over-action, over-trading, the indulgence of a spirit of specu- tion, produced by bank and other facilities. I think this is a ew of the case entirely too superficial. It would be quite as rrect and just, in the instance of a homicide perpetrated by the scharge of a gun, to allege that the leaden ball, and not the man ho levelled the piece, was responsible for the murder. The true quiry is, how came that excessive over-trading, and those exten- ve bank facilities, which the message describes? Were they not e necessary and immediate consequences of the overthrow of the ink, and the removal from its custody of the public deposits? nd is not this proved by the vast multiplication of banks, the icrease of the line of their discounts and accommodations, ompted and stimulated by secretary Taney, and the great aug- entation of their circulation which ensued?

What occurred in the state of Kentucky, in consequence of the eto of the recharter of the bank of the United States, illustrates s effects throughout the union. That state had suffered greatly y banks. It was generally opposed to the reëstablishment of em. It had found the notes of the bank of the United States iswering all the purposes of a sound currency, at home and oroad, and it was perfectly contented with them. At the period the veto, it had but a single bank, of limited capital and circula- on. After it, the state, reluctant to engage in the banking system, id still cherishing hopes of the creation of a new bank of the nited States, encouraged by the supporters of the late president, esitated about the incorporation of new banks. But at length, espairing of the establishment of a bank of the United States, id finding itself exposed to a currency in bank notes from adjacent ates, it proceeded to establish banks of its own; and since the eto, since 1833, has incorporated for that single state, bank capital the amount of ten millions of dollars — a sum equal to the capital the first bank of the United States, created for the whole union.

That the local banks, to which the deposits were transferred om the bank of the United States, were urged and stimulated eely to discount upon them, we have record evidence from the easury department.

The message, to reconcile us to our misfortunes, and to exonerate e measures of our own government from all blame in producing e present state of things, refers to the condition of Europe, and pecially to that of Great Britain. It alleges that

'In both countries we have witnessed the same redundancy of *paper money*, and her facilities of credit; the same spirit of speculation; the same partial success; e same difficulties and reverses; and, at length, nearly the same overwhelming tastrophe.'

The very clear and able argument of the senator from Georgia, Mr. King,) relieves me from the necessity of saying much upon

this part of the subject. It appears that during the period referred to by the message, of 1833–5, there was, in fact, no augmentation, or a very trifling augmentation, of the circulation of the country, and that the message has totally misconceived the actual state of things in Great Britain. According to the publications to which I have had access, the bank of England, in fact, diminished its circulation, comparing the first with the last of that period, about two and a half millions sterling; and although the joint stock and private banks increased theirs, the amount of increase was neutralized by the amount of diminution.

If the state of things were really identical, or similar, in the two countries, it would be fair to trace it to similarity of causes. But is that the case? In Great Britain a sound currency was preserved by a recharter of the bank of England, about the same time that the recharter of the bank of the United States was agitated here. In the United States we have not preserved a sound currency, in consequence of the veto. If Great Britain were near the same catastrophe, (the suspension of specie payments,) which occurred here, she nevertheless *escaped* it; and this difference in the condition of the two countries, makes all the difference in the world. Great Britain has recovered from whatever mercantile distresses she experienced; we have not; and when shall we? All is bright, and cheerful, and encouraging, in the prospects which lie before

Europe, we must look here for some peculiar and more potent causes than any which have been in operation there. They are to be found in that series of measures to which I have already adverted—

First, the veto of the bank;

Second, the removal of the deposits, with the urgent injunction of secretary Taney upon the banks to enlarge their accommodations;

Third, the gold bill, and the demand of gold for the foreign indemnities;

Fourth, the clumsy execution of the deposit law; and,

Fifth, the treasury order of July, 1836.

[Here Mr. Clay went into an examination of these measures, to show that the inflated condition of the country, the wild speculations, which had risen to their height when they began to be checked by the preparations of the local banks necessary to meet the deposit law of June, 1836, the final suspension of specie payments, and the consequent disorders in the currency, commerce, and general business of the country, were all to be traced to the influence of the measures enumerated. All these causes operated immediately, directly, and powerfully upon us, and their effects were indirectly felt in Europe.]

The message imputes to the deposit law, an agency in producing the existing embarrassments. This is a charge frequently made by the friends of the administration against that law. It is true, that, the banks having increased their accommodations, in conformity with the orders of secretary Taney, it might not have been convenient to recall and pay them over for public use. It is true, also, that the manner in which the law was executed by the treasury department, transferring large sums from creditor to debtor portions of the country, without regard to the commerce or business of the country, might have aggravated the inconvenience. But what do those who object to the law think ought to have been done with the surpluses which had accumulated, and were daily augmenting to such an enormous amount in the hands of the deposit banks? Were they to be incorporated with their capital, and remain there for the benefit of the stockholders? Was it not proper and just, that they should be applied to the uses of the people from whom they were collected? And whenever and however taken from the deposit banks, would not inconvenience necessarily happen?

The message asserts that the bank of the United States, chartered by Pennsylvania, has not been able to save itself or to check other institutions, notwithstanding 'the still greater strength it has been said to possess under its present charter.' That bank is now a mere state or local institution. Why is it referred to more than the bank of Virginia, or any other local institution? The exalted station which the president fills forbids the indulgence of the supposition, that the allusion has been made to enable the administration to profit by the prejudices which have been excited against it. Was it the duty of that bank, more than any other state bank, to check the local

institutions? Was it not even under less obligation to do so than the deposit banks, selected and fostered by the general government?

But how could the message venture to assert, that it has greater strength than the late bank of the United States possessed? Whatever may be the liberality of the conditions of its charter, it is impossible that any single state could confer upon it faculties equal to those granted to the late bank of the United States — first, in making it the sole depository of the revenue of the United States; and, secondly, in making its notes receivable in the payment of all public dues. If a bank of the United States had existed, it would have had ample notice of the accumulation of public moneys in the local banks; and, by timely measures of precaution, it could have prevented the speculative uses to which they were applied. Such an institution would have been bound by its relations to the government, to observe its appropriations and financial arrangement and wants, and to hold itself always ready promptly to meet them. It would have drawn together gradually, but certainly, the public moneys, however dispersed. Responsibility would have been concentrated upon it alone, instead of being weakened or lost by diffusion among some eighty or ninety local banks, dispersed throughout the country, and acting without any effective concert.

A subordinate but not unimportant cause of the evils which at present encompass us, has been the course of the late administration towards the compromise act. The great principle of that act

The effect of those constant threats and attacks, coming from those high in power, has been most injurious. They have shown to the manufacturing interest that no certain reliance was to be placed upon the steadiness of the policy of the government, no matter under what solemn circumstances it was adopted. That interest has taken alarm; new enterprises have been arrested, old ones curtailed; and at this moment it is the most prostrate of all the interests in the country. One half in amount, as I have been informed, of the manufacturers throughout the country, have actually suspended operations, and those who have not, chiefly confine themselves to working up their stock on hand.

The consequence has been, that we have made too little at home, and purchased too much abroad. This has augmented that foreign debt, the existence of which so powerfully contributed to the suspension, and yet forms an obstacle to the resumption of specie payments.

The senator from South Carolina, (Mr. Calhoun,) attributed the creation of the surplus revenue to the tariff policy, and especially to the acts of 1824 and 1828. I do not perceive any advantage, on the present occasion, in reviving or alluding to the former dissensions which prevailed on the subject of that policy. They were all settled and quieted by the great healing measure, (the compromise,) to which I have referred. By that act I have been willing and ready to abide. And I have desired only that it should be observed and executed in a spirit of good faith and fidelity, similar to that by which I have been ever actuated towards it.

The act of 1828 was no measure of the friends of the manufacturers. Its passage was forced by a coalition between their secret and open opponents. But the system of protection of American industry did not cause the surplus. It proceeded from the extraordinary sales of the public lands. The receipts, from all sources other than that of the public lands, and expenditures of the years 1833–6, (during which the surplus was accumulating,) both amount to about eighty-seven millions of dollars; thus clearly showing, that the customs only supplied the necessary means of public disbursement, and that it was the public domain that produced the surplus.

If the land bill had been allowed to go into operation, it would have distributed generally and regularly among the several states the proceeds of the public lands, as they would have been received from time to time. They would have returned back in small streams, similar to those by which they have been collected, animating, and improving, and fructifying the whole country. There would have been no vast surplus to embarrass the government; no removal of deposits from the bank of the United States to the deposit banks, to disturb the business of the country; no accumulations in the deposit banks of immense sums of public

money, augmented by the circuit it was performing between the land offices and the banks, and the banks and the land offices; no occasion for the secretary of the treasury to lash the deposit banks into the grant of inordinate accommodations; and possibly there would have been no suspension of specie payments. But that bill was suppressed by a most extraordinary and dangerous exercise of executive power.

The cause of our present difficulties may be stated in another way. During the late administration we have been deprived of the practical benefit of a free government; the forms, it is true, remained and were observed, but the essence did not exist. In a free, or self-government, the collected wisdom, the aggregate wisdom of the whole, or at least of a majority, moulds and directs the course of public affairs. In a despotism, the will of a single individual governs. In a practically free government, the nation controls the chief magistrate; in an arbitrary government, the chief magistrate controls the nation. And has not this been our situation in the period mentioned? Has not one man forced his will on the nation? Have not all these disastrous measures — the veto of the bank, the removal of the deposits, the rejection of the land bill, and the treasury order—which have led to our present unfortunate condition, been adopted, in spite of the wishes of the country, and in opposition, probably, to those of the dominant party itself?

beyond the reach of the human eye, and it does not belong to me to say what they were, which prompted this self-castigation, and this praise of the destruction of his own work; but it is impossible to overlook the fact that this same senator, in due time, received from the author of the veto the gift of a splendid foreign mission!

The moral deducible from the past is, that our free institutions are superior to all others, and can be preserved in their purity and excellence only upon the stern condition that we shall for ever hold the obligations of patriotism paramount to all the ties of party, and to individual dictation; and that we shall never openly approve what we secretly condemn.

In this rapid, and I hope not fatiguing review of the causes which I think have brought upon us existing embarrassments, I repeat that it has been for no purpose of reproaching or criminating those who have had the conduct of our public affairs; but to discover the means by which the present crisis has been produced, with a view to ascertain, if possible, what (which is by far much more important) should be done by congress to avert its injurious effects. And this brings me to consider the remedy proposed by the administration.

The great evil under which the country labors is the suspension of the banks to pay specie; the total derangement in all domestic exchanges; and the paralysis which has come over the whole business of the country. In regard to the currency, it is not that a given amount of bank notes will not now command as much as the same amount of specie would have done prior to the suspension; but it is the future, the danger of an inconvertible paper money being indefinitely or permanently fixed upon the people, that fills them with apprehensions. Our great object should be to reëstablish a sound currency, and thereby to restore the exchanges, and revive the business of the country.

The first impression which the measures brought forward by the administration make, is, that they consist of temporary expedients, looking to the supply of the necessities of the treasury; or, so far as any of them possess a permanent character, its tendency is rather to aggravate than alleviate the sufferings of the people. None of them proposes to rectify the disorders in the actual currency of the country; but the people, the states, and their banks, are left to shift for themselves, as they may or can. The administration, after having intervened between the states and their banks, and taken *them* into their federal service, without the consent of the states; after having puffed and praised them; after having brought them, or contributed to bring them, into their present situation; now suddenly turns its back upon them, leaving them to their fate! It is not content with that; it must absolutely discredit their issues. And the very people, who were told by the administration that these banks would supply them with a better currency,

are now left to struggle as they can with the very currency which the government recommended to them, but which it now refuses itself to receive!

The professed object of the administration is, to establish what it terms the currency of the constitution, which it proposes to accomplish by restricting the federal government, in all receipts and payments, to the exclusive use of specie, and by refusing all bank paper, whether convertible or not. It disclaims all purposes of crippling or putting down the banks of the states; but we shall better determine the design or the effect of the measures recommended, by considering them together, as one system.

The first is the sub-treasuries, which are to be made the depositories of all the specie collected and paid out for the service of the general government, discrediting and refusing all the notes of the states, although payable and paid in specie.

Second, a bankrupt law for the United States, levelled at all the state banks, and authorizing the seizure of the effects of any one of them that stop payment, and the administration of their effects under the federal authority exclusively.

Third, a particular law for the District of Columbia, by which all the corporations and people of the District, under severe pains and penalties, are prohibited from circulating, sixty days after the passage of the law, any paper whatever not convertible into specie

all the vast extent of varied business of this entire country? I think not. The quantity of precious metals in the world, looking to our fair distributive share of them, is wholly insufficient. A convertible paper is a great time-saving and labor-saving instrument, independent of its superior advantages in transfers and remittances. A friend, no longer ago than yesterday, informed me of a single bank, whose payments and receipts in one day amounted to two millions of dollars. What time would not have been necessary to count such a vast sum? The payments, in the circle of a year, in the city of New York, were estimated several years ago at fifteen hundred millions. How many men and how many days would be necessary to count such a sum? A young, growing, and enterprising people, like those of the United States, more than any other, need the use of those credits which are incident to a sound paper system. Credit is the friend of indigent merit. Of all nations, Great Britain has most freely used the credit system; and of all, she is the most prosperous. We must cease to be a commercial people; we must separate, divorce ourselves from the commercial world, and throw ourselves back for centuries, if we restrict our business to the exclusive use of specie.

It is objected against a convertible paper system, that it is liable to expansions and contractions; and that the consequence is the rise and fall of prices, and sudden fortunes or sudden ruin. But it is the importation or exportation of specie, which forms the basis of paper, that occasions these fluctuations. If specie alone were the medium of circulation, the same importation or exportation of it would make it plenty or scarce, and affect prices in the same manner. The nominal or apparent prices might vary in figures, but the sensation upon the community would be as great in the one case as in the other. These alternations do not result, therefore, from the nature of the medium, whether that be specie exclusively, or paper convertible into specie, but from the *operations of commerce.* It is commerce, at last, that is chargeable with expansions and contractions; and against commerce, and not its instrument, should opposition be directed.

I have heard it urged by the senator from South Carolina, (Mr. Calhoun,) with no little surprise, in the course of this debate, that a convertible paper would not answer for a currency, but that the true standard of value was to be found in a paper medium not convertible into the precious metals. If there be, in regard to currency, one truth which the united experience of the whole commercial world has established, I had supposed it to be that emissions of paper money constituted the very worst of all conceivable species of currency. The objections to it are, first, that it is impracticable to ascertain, *a priori*, what amount can be issued without depreciation; and, second, that there is no adequate security, and, in the nature of things, none can exist, against

excessive issues. The paper money of North Carolina, to which the senator referred, according to the information which I have received, did depreciate. It was called proc., an abbreviation of the authority under which it was put forth, and it took one and a half, and sometimes two dollars of proc. to purchase one in specie. But if any one desires to understand perfectly the operation of a purely paper currency, let him study the history of the bank of the commonwealth of Kentucky. It was established about fifteen or sixteen years ago, with the consent of a majority of the people of that state. It is winding up and closing its career with the almost unanimous approbation of the whole people. It had an authority to issue, and did issue, notes to the amount of about two millions of dollars. These notes, upon their face, purported an obligation of the bank to pay the holder, on demand, the amount in specie; but it was well known that they would not be so paid. As a security for their ultimate payment, there were, first, the notes of individuals supposed to be well secured, every note put out by the bank being represented by an individual note discounted; secondly, the funds of the state in a prior state bank, amounting to about half a million of dollars; thirdly, the proceeds of a large body of waste lands belonging to the state; and, fourthly, the annual revenue of the state, and public dues, all of which were payable in the notes of the commonwealth bank.

Notwithstanding this apparently solid provision for the redemp-

without us, independent of us, and in spite of us. We have no constitutional power or right to put them down. Why, then, seek their destruction, openly or secretly, directly or indirectly, by discrediting their issues, and by bankrupt laws, and bills of pains and penalties. What are these banks, now so decried and denounced? Intruders, aliens, enemies, that have found their way into the bosom of our country against our will! Reduced to their elements, and the analysis shows that they consist, first, of stockholders; secondly, debtors; and, thirdly, bill-holders and other creditors. In some one of these three relations, a large majority of the people of the United States stand. In making war upon the banks, therefore, you wage war upon the people of the United States. It is not a mere abstraction that you would kick and cuff, bankrupt and destroy; but a sensitive, generous, confiding people, who are anxiously turning their eyes towards you, and imploring relief. Every blow that you inflict upon the banks, reaches them. Press the banks, and you press them.

True wisdom, it seems to me, requires that we should not seek after if we could discover unattainable abstract perfection; but should look to what is practicable in human affairs, and accommodate our legislation to the irreversible condition of things. Since the states and the people have their banks and will have them, and since we have no constitutional authority to put them down, our duty is to come to their relief when in embarrassment, and to exert all our legitimate powers to retain and enable them to perform, in the most beneficial manner, the purposes of their institution. We should embank, not destroy, the fertilizing stream which sometimes threatens an inundation.

We are told, that it is necessary to separate, divorce the government from the banks, Let us not be deluded by sounds. Senators might as well talk of separating the government from the states, or from the people, or from the country. We are all — people, states, union, banks — bound up and interwoven together, united in fortune and destiny, and all, all entitled to the protecting care of a parental government. You may as well attempt to make the government breathe a different air, drink a different water, be lighted and warmed by a different sun from that of the people! A hard money government, and a paper money people! A government, an official corps — the servants of the people — glittering in gold, and the people themselves, their masters, buried in ruin, and surrounded with rags.

No prudent or practical government, will in in its measures run counter to the long-settled habits and usages of the people. Religion, language, laws, the established currency and business of a whole country, cannot be easily or suddenly uprooted. After the denomination of our coin was changed to dollars and cents, many years elapsed before the old method of keeping accounts, in pounds.

shillings, and pence, was abandoned; and, to this day, there are probably some men of the last century who adhere to it. If a fundamental change becomes necessary, it should not be sudden, but conducted by slow and cautious degrees. The people of the United States have been always a paper money people. It was paper money that carried us through the revolution, established our liberties, and made us a free and independent people. And, if the experience of the revolutionary war convinced our ancestors, as we are convinced, of the evils of an irredeemable paper medium, it was put aside only to give place to that convertible paper, which has so powerfully contributed to our rapid advancement, prosperity, and greatness.

The proposed substitution of an exclusive metallic currency to the mixed medium with which we have been so long familiar, is forbidden by the principles of eternal justice. Assuming the currency of the country to consist of two thirds of paper and one of specie; and assuming, also, that the money of a country, whatever may be its component parts, regulates all values, and expresses the true amount which the debtor has to pay to his creditor, the effect of the change upon that relation, and upon the property of the country, would be most ruinous. All property would be reduced in value to one third of its present nominal amount, and every debtor would, in effect, have to pay three times as much as he had contracted for. The pressure of our foreign debt would be three

of one, is the history of all. It commenced in human weakness, yielding to earnest solicitations for temporary loans, with the most positive assurances of a punctual return. In no instance was there originally any intention to defraud the public. We should not expose poor human nature to such temptations. How easy will it be, as has been done, to indemnify the sureties out of the public money, and squander the residue?

Second, then there is the liability to favoritism. In the receipts, a political partisan or friend may be accommodated in the payment of duties, in the disbursement, in the purchase of bills, in drafts upon convenient and favorable offices, and in a thousand ways.

Third, the fearful increase of executive patronage. Hundreds and thousands of new officers are to be created; for this bill is a mere commencement of the system, and all are to be placed under the direct control of the president.

The senator from South Carolina, (Mr. Calhoun,) thinks that the executive is now weak, and that no danger is to be apprehended from its patronage. I wish to God I could see the subject in the same light that he does. I wish that I could feel free from that alarm at executive encroachments by which he and I were so recently animated. Where and how, let me ask, has that power, lately so fearful and formidable, suddenly become so weak and harmless? Where is that corps of one hundred thousand office-holders and dependents, whose organized strength, directed by the will of a single man, was lately held up in such vivid colors and powerful language by a report made by the senator himself? When were they disbanded? What has become of proscription? Its victims may be exhausted, but the spirit and the power which sacrificed them remain unsubdued. What of the dismissing power? What of the veto? Of that practice of withholding bills contrary to the constitution, still more reprehensible than the abuses of the veto? Of treasury orders, put in force and maintained in defiance and contempt of the legislative authority? And, although last, not least, of that expunging power which degraded the senate, and placed it at the feet of the executive?

Which of all these numerous powers and pretensions has the present chief magistrate disavowed? So far from disclaiming any one of them, has he not announced his intention to follow in the very footsteps of his predecessor? And has he not done it? Was it against the person of Andrew Jackson, that the senator from South Carolina, so ably coöperated with us? No, sir; no, sir; no. It was against his ursurpations, as we believed them, against his arbitrary administration; above all, against that tremendous and frightful augmentation of the power of the executive branch of the government; that we patriotically but vainly contended. The person of the chief magistrate is changed; but there stands the executive power, perpetuated in all its vast magnitude, undimin-

ished, reasserted, and overshadowing all the other departments of the government. Every trophy which the late president won from them, now decorates the executive mansion. Every power, which he tore from a bleeding constitution, is now in the executive armory, ready, as time and occasion may prompt the existing incumbent, wherever he may be, to be thundered against the liberties of the people.

Whatever may have been the motives of the course of others, I owe it to myself and to truth to say, that, in deprecating the election of general Andrew Jackson to the office of chief magistrate, it was not from any private considerations, but because I considered it would be a great calamity to my country; and that, in whatever opposition I made to the measures of his administration, which more than realized my worst apprehensions, I was guided solely by a sense of public duty. And I do now declare my solemn and unshaken conviction, that, until the executive power, as enlarged, extended, and consolidated by him, is reduced within its true constitutional limits, there is no permanent security for the liberties and happiness of this people.

Fourth; lastly, pass this bill, and whatever divorce its friends may profess to be its aim, that perilous union of the purse and the sword, so justly dreaded by our British and revolutionary ancestors, becomes absolute and complete. And who can doubt it, who knows that over the secretary of the treasury at Washington and

bank notes. Of all the branches of this system, that at New York will be the most important, since about one half of the duties is collected there. Drafts on New York are at par, or command a premium from every point of the union. It is the great money centre of the country. Issued in convenient sums, they will circulate throughout the whole union as bank notes; and as long as confidence is reposed in them, will be preferred to the specie, which their holders have a right to demand. They will supply a general currency, fill many of the channels of circulation, be a substitute for notes of the bank of the United States, and supplant to a great extent the use of bank notes. The necessities of the people wil constrain them to use them. In this way they will remain a long time in circulation; and in a few years we shall see an immense portion of the whole specie of the country concentrated in the hands of the branch bank — that is, the sub-treasurer at New York — and represented by an equal amount of government paper, dispersed throughout the country. The responsibility of the sub-treasurer will be consequently greatly increased, and the government will remain bound to guarantee the redemption of all the drafts, checks, or notes, (whatever may be their denomination,) emitted upon the faith of the money in his custody, and, of course, will be subject to the hazard of the loss of the amount of specie in the hands of the sub-treasurer. If, in the commencement of this system, the holders of this government paper shall be required to present it for payment in coin, within a specified time, it will be found inconvenient or impracticable to enforce the restriction, and it will be ultimately abandoned.

Is the senate prepared to consent to place not only all the specie that may be collected for the revenue of the country at the will of the president, or, which is the same thing, in the custody of persons acting in obedience to his will, but to put him at the head of the most powerful and influential system of government banks that ever existed?

It is said in the message, that government is not bound to supply the country with the exchanges which are necessary to the transaction of its business. But was that the language held during the progress of the contest with the late bank of the United States? Was not the expectation held out to the people, that they would be supplied with a better currency, and with better regulated exchange? And did not both the late president and the secretary of the treasury dwell, with particular satisfaction, in several messages and reports, upon the improvement of the currency, the greater amount in exchange, and the reduction of the rates, under the operation of the state bank system, than existed under the bank of the United States? Instead of fulfilling his promises then held out, the government now wraps itself up in its dignity; tells the people that they expect too much of it; that it is not its business

to furnish exchanges; and that they may look to Europe for the manner in which, through the agency of private bankers, the commerce and business of its countries are supplied with exchange. We are advised to give up our American mode of transacting business through the instrumentality of banking corporations, in which the interests of the rich and the poor are happily blended, and to establish bankers similar to the Hopes, the Barings, the Rothschilds, the Hotinguers, of Europe; houses which require years of ages to form and to put in successful operation, and whose vast overgrown capitals, possessed by the rich, exclusively of the poor, control the destiny of nations, and determine the fate of empires.

Having, I think, Mr. President, shown that the project of the administration is neither desirable nor practicable, nor within the constitutional power of the general government, nor just; and that it is contrary to the habits of the people of the United States, and *is* dangerous to their liberties, I might here close my remarks; but I conceive it to be the duty of a patriotic opposition not to confine itself merely to urging objections against measures to promote the general prosperity brought forward by those in power. It has further and higher duties to perform. There may be circumstances in which the opposition is bound formally to present such measures as, in its judgment, are demanded by the exigency of the times; but if it had just reason to believe that they would

I am not going now to discuss, as an original question, the constitutional power of congress to establish a national bank. In human affairs there are some questions, and I think this is one, that ought to be held as terminated. Four several decisions of congress affirming the power, the concurrence of every other department of the government, the approbation of the people, the concurrence of both the great parties into which the country has been divided, and forty years of prosperous experience with such a bank, appear to me to settle the controversy, if any controversy is ever to be settled. Twenty years ago, Mr. Madison, whose opposition to the first bank of the United States is well known, in a message to congress said:

'Waiving the question of the constitutional authority of the legislature to establish an incorporated bank, as being precluded, in my judgment, by repeated recognitions, under varied circumstances, of the validity of such an institution, in acts of the legislative, executive, and judicial branches of the government, accompanied by indications, in different modes, of a correspondence of the general will of the nation; the proposed bank does not appear to be calculated to answer the purposes of reviving the public credit, of providing a national medium of circulation, and of aiding the treasury by facilitating the indispensable anticipations of revenue, and by affording to the public more durable loans.'

To all the considerations upon which he then relied, in treating it as a settled question, are now to be added two distinct and distant subsequent expressions of the deliberate opinion of a republican congress, two solemn decisions of the supreme court of the United States, twenty years of successful experience, and disastrous consequences quickly following the discontinuance of the bank.

I have been present, as a member of congress, on the occasion of the termination of the charters of both the banks of the United States; took part in the discussion to which they gave rise, and had an opportunity of extensively knowing the opinions of members; and I declare my deliberate conviction, that upon neither was there one third of the members in either house who entertained the opinion that congress did not possess the constitutional power to charter a bank.

But it is contended, that, however indispensable a bank of the United States may be to the restoration of the prosperity of the country, the president's opinion against it opposes an insuperable obstacle to the establishment of such an institution.

It will, indeed, be unfortunate, if the only measure which can bring relief to the people should be prevented by the magistrate whose elevated station should render him the most anxious man in the nation to redress existing grievances.

The opinion of the president which is relied upon, is that contained in his celebrated letter to S. Williams, and that which is expressed in the message before us. I must say, with all proper deference, that no man, prior to, or after his election to the chief

magistracy, has a right to say, in advance, that he would not approve of a particular bill, if it were passed by congress. An annunciation of such a purpose is premature, and contrary to the spirit, if not the express letter, of the constitution. According to that instrument, the participation of the president in the legislative power — his right to pass upon a bill — is subsequent, and not previous to, the deliberations of congress. The constitutional provision is, that, when a bill shall have passed both houses, it shall be presented to the president for his approval or rejection. His right to pass upon it results from the presentation of the bill, and is not acquired until it is presented. What would be thought of the judge who, before a cause is brought before the court, should announce his intention to decide in favor of a named party? Or of the senate, which shares the appointing power, if it should, before the nomination of a particular individual is made for an office, pass a resolution that it would not approve the nomination of that individual?

It is clear, that the president places his repugnance to a bank of the United States mainly upon the ground that the popular will has been twice 'solemnly and unequivocally expressed' against it. In this I think the president is mistaken. The two occasions to which he is understood to refer, are the election of general Andrew Jackson in 1832, and his own election in 1836. Now, as to the first, there was not, before it took place, any unequivocal expression

wife, for better or for worse, with all the good and bad opinions and qualities which he possesses. You might as well argue, that the election of a particular person to the chief magistracy implies that his figure, form, and appearance exhibit the standard of human perfection, as to contend that it sanctions and approves every opinion which he may have publicly expressed on public affairs It is somewhat ungrateful to the people to suppose that the particular opinion of Mr. Van Buren in regard to a United States bank, constituted any, much less the chief recommendation of him to their suffrages. It would be more honorable to him and to them, to suppose that it proceeded from his eminent abilities, and his distinguished services at home and abroad. If we are to look beyond them and beyond him, many believe that the most influential cause of his election was the indorsement of that illustrious predecessor, in whose footsteps he stands pledged to follow.

No, sir, no; the simple and naked question of a bank or no bank of the United States was not submitted to the people, and 'twice solemnly and *unequivocally*' decided against by them. I firmly believe, that if such a question were now submitted to them, the response of a vast majority would be in the affirmative. I hope, however, that no bank will be established or proposed, unless there shall be a clear and undisputed majority of the people and of the states in favor of such an institution. If there be one wanted, and an unequivocal manifestation be made of the popular will that it is desired, a bank will be established. The president's opposition to it is founded principally upon the presumed opposition of the people. Let them demonstrate that he is mistaken, and he will not separate himself from them. He is too good a democrat, and the whole tenor of his life shows that, whatever other divorces he may recommend, the least that he would desire, would be one between him and the people. Should this not prove to be the case, and if a majority should not exist sufficiently large to pass a bank charter in spite of the veto, the ultimate remedy will remain to the people to change their rulers, if their rulers will not change their opinions.

But during this debate it has been contended, that the establishment of a new bank of the United States would aggravate existing distresses; and that the opinion necessary to put it in operation could not be obtained without prejudice to the local banks.

What is the relief for which all hearts are now so anxiously throbbing? It is to put the banks again in motion; to restore exchanges, and revive the drooping business of the country. And, what are the obstacles? They are, first, the foreign debt; and, secondly, a want of confidence. If the banks were to reopen their vaults, it is apprehended that the specie would be immediately exported to Europe to discharge our foreign debt. Now, if a bank of the United States were established, with a suitable capital, the stock of that bank itself would form one of the best subjects of remittance; and an amount of it equal to what remains of the

foreign debt would probably be remitted, retaining at home or drawing from abroad the equivalent in specie.

A great, if not the greatest existing evil is the want of confidence, not merely in the government, but in distant banks, and between the banks themselves. There is no tie or connection binding them together, and they are often suspicious of each other. To this want of confidence among the banks themselves, is to be ascribed that extraordinary derangement in the exchanges of the country. How otherwise can we account for the fact, that the paper of the banks of Mississippi cannot now be exchanged against the paper of the banks of Louisiana, without a discount on the former of ten or fifteen per centum; nor that of the banks of Nashville, without a discount of eight or ten per centum against the paper of the banks of the adjoining state of Kentucky? It is manifest, that, whatever may be the medium of circulation, whether it be inconvertible paper, or convertible paper and specie, supposing confidence to exist, the rates of exchange in both cases ought to be nearly the same. But, in times like these, no bank will allow its funds to accumulate, by the operations of exchange, at points where no present use can be made of them.

Now, if a bank of the United States were established, with a proper capital, and it were made the sole depository of the public moneys, and its notes were receivable in all government dues, it might commence operations forthwith, with a small amount of

If, in contrasting the two periods of 1817 and 1837, some advantages for the resumption of specie payments existed at the former epoch, others which distinguish the present greatly preponderate. At the first there were none except the existence of a public debt, and a smaller number of banks. But then an exhausting war had wasted our means. Now we have infinitely greater wealth, our resources are vastly more developed and increased, our population nearly doubled, our knowledge of the disease much better, and, what is of the utmost importance, a remedy, if applied now, would be administered in a much earlier stage of the disorder.

A general currency, of sound and uniform value, is necessary to the well being of all parts of the confederacy, but it is indispensable to the interior states. The seaboard states have each of them banks, whose paper freely circulates within their respective limits, and serves all the purposes of their business and commerce at their capitals, and throughout their whole extent. The variations in the value of this paper, in passing through those states, from one commercial metropolis to another, are not ordinarily very great. But how are we of the interior to come to the Atlantic cities to purchase our supplies of foreign and domestic commodities, without a general medium? The paper of our own banks will not be received but at an enormous discount. We want a general currency, which will serve at home and enable us to carry on our accustomed trade with our brethren of the Atlantic states. And such a currency we have a right to expect.

I do not arrogate to myself a right to speak for and in behalf of all the western states; but as a senator from one of them I am entitled to be heard. This union was formed to secure certain general, but highly important objects, of which the common defence, commerce, and a uniform currency, were the leading ones. To the interior states none is of more importance than that of currency. Nowhere is the attachment to the union more ardent than in those states; but if this government should neglect to perform its duty, the value of the union will become impaired, and its very existence in process of time may become endangered. I do believe, that between a sound general currency, and the preservation of itself, in full vigor and perfect safety, there is the most intimate connection.

If, Mr. President, the remedies which I have suggested were successful, at a former period of our history, there is every reason to hope, that they would again prove efficacious; but let me suppose that they should not, and that some unknown cause, which could not then, should now, thwart their operation, we should have, in any event, the consolation of knowing that we had endeavored to profit by the lessons of experience; and if they failed, we should stand acquitted in the judgment of the people. They are heartily tired of visionary schemes and wild experiments. They wish to

get out of the woods, into which they have been conducted, back to the plain, beaten, wide road, which they had before trod.

How, and when, without such measures as I have suggested, are the state banks to resume specie payments? They never can resume without concert; and concert springs from confidence; and confidence from knowledge. But what knowledge can eight hundred banks, scattered over our own vast territory, have of the actual condition of each other? It is in vain that statements of it be periodically published. It depends, at last, mainly upon the solvency of the debtors to the bank; and how, whenever their names are not known, can that be ascertained?

Instead of coming to the aid of these prostrate institutions, and assisting them by a mild and parental exercise of your power, in a mode sanctioned and approved by experience, you propose to abandon them and the country to their fate. You propose worse, to discredit their paper, to distrust them even as special depositories, and to denounce against them all the pains and penalties of bankruptcy.

How, and when, will they resume specie payments? Never, as far as my information extends, have exertions been greater than those which the banks have generally made, to open again their vaults. It is wonderful that the community should have been able to bear, with so much composure and resignation, the prodigious curtailments which have been made. Confidence reëstablished, the foreign debt extinguished, and a national institution created,

until such a conviction is deeply impressed upon the people, and clearly manifested by them, it would, in my judgment, be unwise even to propose a bank.

Of the scheme of the senator from Virginia, (Mr. Rives,) I think now as I thought in 1834, I do not believe that any practical connection of state banks can supply a general currency, be a safe depository of the public moneys, or act efficiently as a fiscal agent of the general government. I was not then opposed to the state banks in their proper sphere. I thought that they could not be relied upon to form exclusively a banking system for the country, although they were essential parts of a general system.

The amendment of the senator, considered as a measure to bring about the resumption of specie payments, so much desired, I think must fail. The motive which it holds out of the receivability in all payments to the government of the paper of such banks as may resume at a given day, coupled with the conditions proposed, is wholly inadequate. It is an offer to eight hundred banks; and the revenue, payment of which in their notes is held out as the inducement, amounts to some twenty or twenty-five millions. To entitle them to the inconsiderable extension of their circulation, which would result from the credit given by government to the paper of all of them, they are required to submit to a suppression of all notes below five dollars, and at no very distant period, to all below twenty. The enlargement of their circulation, produced by making it receivable by government, would be much less than the contraction which would arise from the suppression of the prohibited notes. Besides, if the quality proposed again to be attached to the notes of these local banks was insufficient to prevent the suspension, how can it be efficacious enough to stimulate a resumption of specie payments?

I shall, nevertheless, if called upon to give a vote between the project of the administration and the amendment of the senator from Virginia, vote for the latter, because it is harmless, if it effects no good, and looks to the preservation of the state banks; whilst the other is fraught with mischiefs, as I believe, and tends, if it be not designed, to the utter destruction of those institutions. But preferring to either the postponement moved by the senator from Georgia, I shall, in the first instance, vote for that.

Such, Mr. President, are the views which I entertain on the present state of our public affairs. It is with the deepest regret that I can perceive no remedy, but such as is in the hands of the people themselves. Whenever they shall impress upon congress a conviction of that which they wish applied, they will obtain it, and not before. In the mean time, let us go home, and mix with and consult our constituents. And do not, I entreat you, let us carry with us the burning reproach, that our measures here display a selfish solicitude for the government itself, but a cold and heartless insensibility to the sufferings of a bleeding people.

# ON THE PREËMPTION BILL.

## IN THE SENATE OF THE UNITED STATES, JANUARY 26, 1838.

[THE system of granting preëmption rights to settlers on the public lands, or squatters, as they are called, being persons who locate themselves on those lands without first obtaining the right by purchase, Mr. Clay has always opposed. In taking this course he has shown his disregard of the effect calculated to be produced on his personal popularity in the newly settled states, by opposing a measure which he considered detrimental to the interests of the country, however desirable it might be to the pioneers in the new settlements. At the session of congress in 1838, a bill granting preëmption rights to settlers on the public lands was introduced and passed the senate by a large majority, but, while the measure was under consideration, Mr. Clay did not hesitate to oppose it in the following remarks.]

MR. CLAY said, that in no shape which should be given to this

the public sales, if preëmption were denied them, and buy their land as reasonably as it could be purchased! Could any one be so stupid as to suppose that the gain on the land could be greater by preëmption than by public auction?

But Mr. Clay wished especially to call the attention of the senate to a document to which he would refer. Two years ago a report from the commissioner of the land office had been sent here by this same secretary of the treasury, the report of a person more conversant with settlements in the western country than perhaps any man in congress, and certainly more than any connected with the executive government, the late commissioner, Mr. Brown, the late governor of the state of Ohio. What did he say of the loss incurred by preëmption laws? The document was number two hundred and eleven of the session of 1836. The whole of it was well worthy of deliberate perusal, and it was replete with fraud, abominable, execrable fraud, scandalous to the country, scandalous to the government, and scandalous to the perpetrators. In saying this, Mr. Clay would not denounce any whole class; but he would say that the preëmption system was a scheme of heartless and boundless speculation. What does the commissioner say?

'This office possesses no data whereby to estimate with tolerable accuracy how far the sales of public lands have been effected, in respect to quantity, by the preëmption act of nineteenth of June, 1834. Considering the great demand for land within the last two years, it remains to be shown that a greater number of acres has been disposed of in that period in consequence of the privilege it confers. It is quite impossible to estimate with satisfactory accuracy the effect that has been produced on this branch of the revenue by allowing (to those who have, and pretend to, a right of preference) the choice, at the lowest rate, of distinguished sites for towns, and their vicinities, the best mill seats, and the finest farming lands, including those so highly prized for the culture of cotton.

'The general land office has no certain data for a just calculation of the amount which the treasury has been prevented from receiving by the operation of this law, but considering the many tens of thousands of claims that have arisen under it, and the prevailing desire in the mean while to vest money in public land, the conclusion seems fair, that the selected spots would have been sold for a price proportioned to their excellence, if no such law, nor any improper conspiracy, had existed. The estimate of three millions of dollars, which I had the honor to submit to you on the twenty-eighth of January last, appears to me now to underrate much rather than magnify the difference between the receipts for preëmption concessions, and the sum the same lands would have brought into the treasury, had no impediment laid in the way of full and free competition for the purchase.

'It is but just, however, to observe, that the revenue from public lands has not been impaired by preëmptions alone; and I may be allowed to remark, in this place, that the information, on the subject of the last resolution referred to me, consists of what common fame represents as avowed and notorious, namely: that the public sales are attended by combinations of two kinds, interested in keeping bids down to the minimum; the one composed of those who have and those who pretend to a right of preference, and resort to intimidation by threats and actual violence, as exemplified most particularly at the public sales at Chicago, in June, 1835, when and where the controlling party is represented to have effectually prevented those from bidding who were not acceptable to themselves; the other description formed of persons associated to frustrate the views of individuals desirous of purchasing, who refuse to join their coalition, or submit to their dictation, by compelling the recusants to forego their intended purchases, or give more than the market value of the lands.'

Now, resumed Mr. Clay, how did this conspiracy take place? He would tell. In September last, the Indian title had been extinguished to a tract of most valuable land in Indiana, at one dollar per acre, by the United States. What was the consequence? The instant the Indian title was extinguished, there was a rush upon it from all quarters; and if that land should be exposed at public sale, it would be found that these men, who had seized the property of the people of the United States, would combine to intimidate and overawe all competitors, and thereby acquire the land on their own terms. In this way lawless men had often combined, not only without but against the positive authority of law; and here, while vindicating the rights and guarding the property of the whole people, Mr. Clay would not be awed nor deterred from performing his duty by any personal considerations. He would read no more of this document, senators could read it at their leisure; it was the deliberate judgment of an experienced and intelligent man against the whole system of preëmption.

But he wished to call the attention of the senate to some official documents, one of which was from a district attorney, he believed of Louisiana.

'Sir: I present, herewith, a number of affidavits in relation to preëemptions obtained by Gabriel H. Tutt, to the southeast quarter, Richard Tutt, to the east half of the northeast quarter, and Benjamin Tutt, to the west half of the northeast quarter, of section number three west, in the land district of Dempolis, in the state of Alabama. These affidavits have been taken by some of the most respectable

'It is much to be regretted that the surveys are not made, and the lands offered for sale, before the country is settled. Preëmption in parts of the country where there are no private claims to adjust, seem to hold out rewards to those who, in the first instance, violate the laws with a view of greatly benefiting themselves, by securing the choice parts at the lowest price, while others, more conscientious, wait for the public sales. It has a very demoralizing effect; the temptation is so great to get land worth five or ten dollars an acre, in many instances, at the government price for the poorest land, that witnesses will be found to prove up the occupancy of the land. It occasions severe disputes between the settlers, and much troublesome unthankful service for the officers, all of which would be avoided by hastening the surveys, and immediately offering the land for sale. The witnesses are sometimes probably deceived by not knowing where the subdivisional lines would run if extended through the tracts.'

The same officer, in illustrating the subject in another place, says,

'The preëmption system is not a practicable system to dispose of the public lands; and if the president could see the outrageous uproar and confusion in the register's office for one day, I am well convinced he would never sign another preëmption law. The preëmption rights heretofore were confined to small districts, interspersed with private claims, and the right was given only to actual settlers who *resided* on the very tract claimed by them, and then only to heads of families, and persons over twenty-one years of age. There were no floating rights. Even that system created great confusion and fraud in Louisiana, and was generally believed to do more harm than good. I know one considerable battle royal fought on the occasion, and was told by the deputy surveyors that many of the tracts they surveyed, perhaps in the very year the preëmption right was obtained, were in a wild state, where they did not see the trace of a human being, and were proved to be in a state of cultivation. At present it is customary for the leader of a party of speculators to agree with a number of dealers, with their witnesses, men, women, and children, to meet on a certain day at the register's office. They come like the locusts of Egypt, and darken the office with clouds of smoke and dust, and an uproar occasioned by whisky and avarice, that a register, at least, can never forget.

'The many different propositions made by members of congress to dispose of the public lands, makes it probable that some change in the system will be effected; I therefore ask your indulgence to make some general remarks on the subject. I have been engaged in the land business from the year 1806, first as a deputy surveyor, about one year; then about fifteen years as principal deputy for the western district, Louisiana; four years of which, as one of the commissioners for deciding on and adjusting the claims of that district; and have now been more than eight years register for the Choctaw land district. I think it is to be regretted, that there is so much feverish anxiety to make alterations in the land system by members of congress, who have not the practical experience necessary to enable them to avoid confusion and endless difficulties.

'The preëmption act of the twenty-ninth of May, 1830, is the most unguarded, and in all respects the worst land law that has ever been passed in the United States. In districts where the public land could not be disposed of for many years, on account of private claims, there seemed to be some necessity for allowing preëmptions; but where there are no private claims to be adjusted, the exclusive advantage given to those who go on the most choice spots, and that in direct violation of an act of congress, has a very unequal bearing and demoralizing effect. If the whole community, who are equally interested, were authorized by law to make settlements on the public lands, the advantages would seem to be equal; but, if such was the case, I think it likely that it would cause the loss of many lives in the general scramble which would take place. If the preëmption right only extended to the forfeited lands, or such as had been improved under the credit system, where the tracts paid for had cost the parties a high price, there would seem to be some reason in it; but that a general sweep should be made of the most valuable lands of the United States by intruders, at as low a price as that which the poorest person in the nation would have to pay for the poorest pine barren, is unreasonable in the extreme.'

[ *Mr. Walker.* What is the name of that officer? ]

Gideon Fitz; and this extract is on the forty-ninth page of the document.

Mr. Clay did not intend at present to go so far into the subject as he had done, hoping for another occasion on which he designed, should God spare his life and health, to speak more fully on the subject, and endeavor to expose this system of iniquity.

Two years ago, according to the official report of commissioner Brown, there was a loss of three millions of dollars, which would not have occurred if the land had been put up fairly in the market—a loss occasioned by this system of iniquity, and the combinations which it occasions to keep down the price, and to prevent all competition. When the senate should receive the account which Mr. Clay had called for, (by a resolution,) which he hoped they would receive in time for this bill, they would see what amount was received at the public sales, what was the average price of each acre sold at the public sales, without confounding them with the private sales, and making an average from the whole.

[ Mr. Walker, in reply, alluded to a charge made against himself, by an anonymous letter, that he owned half a million of preëmption in Mississippi, and to his formal denial, in the senate, that he owned any land whatever in that quarter, or had any interest there, direct or indirect. He proceeded at considerable length to adduce facts and arguments to invalidate the testimony on which Mr. Clay had depended, and made some allusion to the preëmption part of Mr. Clay's land bill, and charged the old states with grasping after the public lands.

Mr. Clay, of Alabama, (rising at the same time with Mr. Clay of Kentucky,) said he had a few words for this distinguished commissioner of the public lands.

(*Mr. Clay, of Kentucky.* A bad, a very bad commissioner.)

Mr. Clay, of Alabama, had understood this commissioner to say that there had

The subject of the public lands had been forced upon him by the political party of the senator from Mississippi several years ago. The land bill for distributing the proceeds of them was the consequence; but was there any thing of grasping, even in that? It did not propose to touch the land system, to alter or affect the price or the mode of sale. The old, the tried system was admirable. Under the auspices of such men as Jeremiah Morrow, nothing human could have been more perfect or just. But what did that measure propose? To distribute the whole net proceeds of the lands among all the states, old and new, allowing to the new an extra bounty of fifteen per cent. What kind of grasping by the old states was this? And how was the equitable measure received by some of the new states? The senator was mistaken; it was not the old states to whom his imputation would apply; the hand that made the grip was thrust from some other quarter.

He had no part in the charge against the senator in relation to lands in Mississippi; but how had he made out in his vindication of the officers of the government? The commissioner of the land office was not to be believed, because he differed from him; a commissioner appointed by the immortal Jackson, governor of Ohio, and well worthy to be sent on a foreign mission, was not to be believed, because his views did not agree with those of the senator from Mississippi. But could the senator say that the two or three millions of acres taken up by preëmptions might not have produced, at public sales, three millions of dollars, which the commissioner had estimated to have been lost? Had not the senator himself stated, at a former session, that many of these lands were worth fifty dollars per acre?

Mr. Clay, after a few remarks on certain frauds in Louisiana, and on the alleged frauds in Mississippi, recurred to the case of the valuable land in Indiana, for which there is a contest between individuals and the legislature. He hoped, if either party should get the land, it would be the whole state. But the legislature was now in session, and what did they seem themselves to think of individual preëmption rights, when not the whole union, but that state alone was concerned? They gave thirty-nine votes against individual preëmption rights, and only five votes in favor. He would read a short account of the debate on this point.

[Here Mr. Clay read parts of several speeches in the Indiana legislature, denouncing the preëmption system, and showing that attempts were made by speculotors, under the garb of poor settlers, to appropriate the land which had been recently acquired from the Miami Indians.]

Mr. Clay had taxed his recollection in relation to persons in Kentucky, to whom preëmption rights had been granted; and he knew of but one man who lived on land granted to him by Virginia as a settler. Mr. Clay was for abiding by, defending, and protecting the land system heretofore existing, against all and every material innovation.

IN THE SENATE OF THE UNITEI

[THE independent or sub-treasury scheme b
congress, by Mr. Van Buren, although public c
Mr. Clay delivered the following elaborate spe
design had existed on the part of general Jacks
to break down the whole banking system of th
ruins a *government treasury bank*, under the exc
speech was partly in reply to Mr. Calhoun, o
supporter of the administration.]

I HAVE seen some public service,
times, and often addressed public a
elsewhere; but never before have I
under more oppressed feelings, or w
responsibility. Never before have I
upon any public measure, fraught w
quences to the welfare and prospe
perilous to the liberties of the people,
under consideration will be. If you k
reflection upon it has cost me, if you
sincerity I have implored divine assis
me in my opposition to it, I should l
for the sincerity of my convictions, if
not to have your concurrence as to th
measure. And I have thanked my G
life until the present time, to enabl
service of my country, against a proj

tunate measures of executive administration. I now will content myself with saying that, on the fourth day of March, 1829, Andrew Jackson, not by the blessing of God, was made president of these United States; that the country then was eminently prosperous; that its currency was as sound and safe as any that a people were ever blessed with; that, throughout the wide extent of this whole union, it possessed a uniform value; and that exchanges were conducted with such regularity and perfection, that funds could be transmitted from one extremity of the union to the other, with the least possible risk or loss. In this encouraging condition of the business of the country, it remained for several years, until after the war, wantonly waged against the late bank of the United States, was completely successful, by the overthrow of that invaluable institution. What our present situation is, is as needless to describe as it is painful to contemplate. First felt in our great commercial marts, distress and embarrassment have penetrated into the interior, and now pervade almost the entire union. It has been justly remarked by one of the soundest and most practical writers that I have had occasion to consult, that 'all convulsions in the circulation and commerce of every country must originate in the operations of the government, or in the mistaken views and erroneous measures of those possessing the power of influencing credit and circulation; for they are not otherwise susceptible of convulsion; and, if left to themselves, they will find their own level, and flow nearly in one uniform stream.'

Yes, Mr. President, we all have but too melancholy a consciousness of the unhappy condition of our country. We all too well know, that our noble and gallant ship lies helpless and immovable upon breakers, dismasted, the surge beating over her venerable sides, and the crew threatened with instantaneous destruction. How came she there? Who was the pilot at the helm when she was stranded? The party in power! The pilot was aided by all the science and skill, by all the charts and instruments, of such distinguished navigators as Washington, the Adamses, Jefferson, Madison, and Monroe; and yet he did not, or could not, save the public vessel. She was placed in her present miserable condition by his bungling navigation, or by his want of skill and judgment. It is impossible for him to escape from one or the other horn of that dilemma. I leave him at liberty to choose between them.

I shall endeavor, Mr. President, in the course of the address I am about making, to establish certain propositions, which I believe to be incontestable; and, for the sake of perspicuity, I will state them severally to the senate. I shall contend,

First, that it was the deliberate purpose and fixed design of the late administration to establish a government bank — a treasury bank — to be administered and controlled by the executive department.

continued, against the state banks.

Fourthly, that the present admin
ments, emanating from the highest a
succeeded to the principles, plans,
administration, and stands solemnl
perfect them.

And, fifthly, that the bill under
execute the pledge, by establishing, u
of the United States, and the state
be managed and controlled by the
under the commands of the president

I believe, solemnly believe, the tru
propositions. In the support of the
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the testimony, intrinsic and extrinsic
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entertain, and in which I feel perfectl
will share.

First. My first proposition is, that
and fixed design of the late administr
bank — a treasury bank — to be ad
the executive department. To estal
which I offer is the following extr
annual message of December, 1829.

This was the first open declaration of that implacable war against the late bank of the United States, which was afterwards waged with so much ferocity. It was the sound of the distant bugle, to collect together the dispersed and scattered forces, and prepare for battle. The country saw with surprise the statement, that 'the constitutionality and expediency of the law creating this bank are well questioned *by a large portion* of our fellow-citizens,' when, in truth and in fact, it was well known that but few then doubted the constitutionality, and none the expediency, of it. And the assertion excited much greater surprise, that 'it must be *admitted by all*, that it has failed in the great end of establishing a uniform and sound currency.' In this message, too, whilst a doubt is intimated as to the utility of such an institution, president Jackson clearly first discloses his object to establish a national one, founded upon the *credit of the government and its revenues*. His language is perfectly plain and unequivocal. Such a bank, founded upon the credit of the government and its revenues, would secure all the advantages to the government and the country, he tells us, that were expected to result from the present bank.

In his annual message of the ensuing year, the late president says:

'The importance of the principles involved in the inquiry, whether it will be proper to recharter the bank of the United States, requires that I should again call the attention of congress to the subject. Nothing has occurred to lessen, in any degree, the dangers which many of our citizens apprehend from that institution, as at *present organized*. In the spirit of improvement and compromise which distinguishes our country and its institutions, it becomes us to inquire, *whether it be not possible to secure the advantages afforded by the present bank, through the agency of a bank of the United States, so modified in its principles* as to obviate constitutional and other objections.

'It is thought practicable to organize such a bank, with the necessary officers, *as a branch of the treasury department*, based on the public and individual deposits, without power to make loans, or purchase property, which shall remit the funds of government; and the expense of which may be paid, if thought advisable, by allowing its officers *to sell bills of exchange*, to private individuals, at a moderate premium. Not being a corporate body, having no stockholders, debtors, and property, and but few officers, it would not be obnoxious to the constitutional objections which are urged against the present bank; and having no means to operate on the hopes, fears, or interests, of large masses of the community, it would be shorn of the influence which makes that bank formidable.'

In this message president Jackson, after again adverting to the imaginary dangers of a bank of the United States, recurs to his favorite project, and inquires, 'whether it be not possible to secure the advantages afforded by the present bank, through the agency of a bank of the United States, so modified in its principles and structure as to obviate constitutional and other objections.' And to dispel all doubts of the timid, and to confirm the wavering, he declares, that it is thought practicable to organize such a bank, with the necessary officers, as a branch of the treasury department. *As a branch of the treasury department!* The very scheme now under consideration. And, to defray the expenses of such an anomalous institution, he suggests, that the officers of the treasury department

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the people should be seasonably dire
and that it might be considered, and f
best calculated to promote the ends of
the public interests.' What were
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to exclusive executive control.

At the session of 1831–2, the qu
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following extract is submitted to the
senate.

'A bank of the United States is, in many res
and useful to the people. Entertaining this opi
belief that some of the powers and privileges po
thorized by the constitution, subversive of the r

President Jackson admits, in the citation which has just been made, that a bank of the United States is, in many respects, convenient for the government; and reminds congress that he had, at an early period of his administration, called its attention to the practicability of so organizing such an institution as to secure all its advantages, without the defects of the existing bank. It is perfectly manifest, that he alludes to his previous recommendations of a government, a treasury bank. In the same message he tells congress, that if he had been called upon to *furnish the project* of such an institution, the duty would have been cheerfully performed. Thus it appears, that he had not only settled in his mind the general principle, but had adjusted the details of a government bank, to be subjected to executive control; and congress is even chided for not calling upon him to present them. The bill now under consideration, beyond all controversy, is the very project which he had in view, and is to consummate the work which he began. I think, Mr. President, that you must now concur with me in considering the first proposition as fully maintained. I pass to the second and third, which, on account of their intimate connection, I will consider together.

Second, that with the view of establishing a government bank, it was the settled aim and intention of the late administration, to overthrow the whole banking system of the United States, as existing in the United States when that administration came into power, beginning with the bank of the United States, and ending with the state banks.

Third, that the attack was first confined, from considerations of policy, to the bank of the United States; but that, after its overthrow was accomplished, it was then directed, and has since been continued, against the state banks.

We are not bound to inquire into the motives of president Jackson for desiring to subvert the established monetary and financial system, which he found in operation; and yet some examination into those which probably influenced his mind, is not without utility. These are to be found in his peculiar constitution and character. His egotism and vanity, prompted him to subject every thing to his will; to change, to remould, and retouch every thing. Hence the proscription which characterized his administration, the universal expulsion from office, at home and abroad, of all who were not devoted to him, and the attempt to render the executive department of government, to use a favorite expression of his own, a complete 'unit.' Hence his seizure of the public deposits, in the bank of the United States, and his desire to unite the purse with the sword. Hence his attack upon all the systems of policy which he found in practical operation, on that of internal improvements, and on that of the protection of national industry. He was animated by the same sort of ambition which induced the master mind of the age, Napoleon Bonaparte, to impress his name upon

every thing in France. When I was in Paris, the sculptors were busily engaged chiselling out the famous N., so odious to the Bourbon line, which had been conspicuously carved on the palace of the Tuilleries, and on other public edifices and monuments, in the proud capital of France. When, Mr. President, shall we see effaced, all traces of the ravages committed by the administration of Andrew Jackson! Society has been uprooted, virtue punished, vice rewarded, and talents and intellectual endowments despised; brutality, vulgarism, and loco focoism upheld, cherished, and countenanced. Ages will roll around before the moral and political ravages which have been committed, will, I fear, cease to be discernible. General Jackson's ambition was to make his administration an era in the history of the American government, and he has accomplished that object of his ambition; but I trust that it will be an era to be shunned as sad and lamentable, and not followed and imitated as supplying sound maxims and principles of administration.

I have heard his hostility to banks ascribed to some collision which he had with one of them, during the late war, at the city of New Orleans; and it is possible that may have had some influence upon his mind. The immediate cause, more probably, was the refusal of that perverse and unaccommodating gentleman, Nick Biddle, to turn out of the office of president of the New Hampshire branch of the bank of the United States, at the instance of his

from his own state. For that purpose, we were invited to dine with them, at Claxton's boarding-house, on Capitol hill, where my venerable friend from Tennessee, (Mr. White,) and his colleague on the Spanish commission, were both present. I retired early from dinner, and was followed to the door by general Jackson and the present minister of the United States at the court of Madrid. They pressed me earnestly to take a seat with them in their carriage. My faithful servant and friend, Charles, was standing at the door, waiting for me, with my own. I yielded to their urgent politeness, directed Charles to follow with my carriage, and they sat me down at my own door. We afterwards frequently met, with mutual respect and cordiality; dined several times together, and reciprocated the hospitality of our respective quarters. This friendly intercourse continued, until the election, in the house of representatives, of a president of the United States, came on, in February, 1825. I gave the vote which, in the contingency that happened, I told my colleague, (Mr. Crittenden,) who sits before me, prior to my departure from Kentucky, in November, 1824, and told others, that I should give. All intercourse ceased between general Jackson and myself. We have never since, except once accidentally, exchanged salutations, nor met, except on occasions when we were performing the last offices towards deceased members of congress, or other officers of government. Immediately after my vote, a rancorous war was commenced against me, and all the barking dogs let loose upon me. I shall not trace it during its ten years' bitter continuance. But I thank my God that I stand here, firm and erect, unbent, unbroken, unsubdued, unawed, ready to denounce the mischievous measures of his administration, and ready to denounce this, its legitimate offspring, the most pernicious of them all.

His administration consisted of a succession of astounding measures, which fell on the public ear like repeated bursts of loud and appalling thunder. Before the reverberations of one peal had ceased, another and another came, louder and louder, and more terrifying. Or rather, it was like a volcanic mountain, emitting frightful eruptions of burning lava. Before one was cold and crusted, before the voices of the inhabitants of buried villages and cities were hushed in eternal silence, another, more desolating, was vomited forth, extending wider and wider the circle of death and destruction.

Mr. President, this is no unnecessary digression. The personal character of such a chief as I have been describing, his passions, his propensities, the character of his mind, should be all thoroughly studied, to comprehend clearly his measures and his administration. But I will now proceed to more direct and strict proofs of my second and third propositions. That he was resolved to break down the bank of the United States, is proved by the same citations from his messages which I have made to exhibit his purpose to

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cession and generous patriotism, which was originally, and must ever continue to be, the vital element of our union.

'On this subject, I am sure that I cannot be mistaken, in ascribing our want of success to the undue countenance which has been afforded to the *spirit of monopoly*. All the serious dangers which our system has yet encountered, may be traced to the resort to implied powers, *and the use of corporations* clothed with privileges, the effect of which is to advance the interests of the few at the expense of the many. We have felt *but one class* of these dangers, exhibited in the contest waged by the bank of the United States, against the government, for the last four years. Happily they have been obviated for the present, by the indignant resistance of the people; but we should recollect that the principle whence they sprang is an ever-active one, which will not fail to renew its efforts in the same and in other forms, so long as there is a hope of success, founded either on the inattention of the people, or the treachery of their representatives, to the subtle progress of its influence.'

* * * * 'We are now to see whether, in the present favorable condition of the country, we cannot take an *effectual stand against this spirit* of monopoly, and practically prove, in respect to the currency, as well as other important interests, that there is no necessity for so extensive a resort to it as that which has been heretofore practiced.'

* * * * 'It has been seen, that without the agency of a great moneyed monopoly, the revenue can be collected, and conveniently and safely applied to all the purposes of the public expenditure. It is also ascertained that, instead of being necessarily made to promote the evils of an unchecked paper system, the management of the revenue *can be made* auxiliary to the reform which the legislatures of several of the states have already commenced, in regard to the suppression of small bills; and which has only to be fostered *by proper regulations on the part of congress*, to secure a practical return, to the extent required for the security of the currency, to the constitutional medium.'

As in the instance of the attack upon the bank of the United States, the approach to the state banks is slow, cautious, and insidious. He reminds congress and the country that all calculations of temporary convenience must be set aside; that we must recur to first principles; and that we must see what it is that has prevented the legislation of congress *and the states* on the subject of the currency from satisfying public expectation. He declares his conviction that the want of success has proceeded from the undue countenance which has been afforded to the spirit of monopoly. All the serious dangers which our system has yet encountered, may be traced to the resort to implied powers, and *to the use of corporations*. We have felt, he says, but one class of these dangers in the contest with the bank of the United States, and he clearly intimates that the *other* class is the state banks. We are now to see, he proceeds, whether in the present favorable condition of the country, we cannot take an effectual stand against this spirit of monopoly. Reverting to his favorite scheme of a government bank, he says it is ascertained, that, instead of being made necessary to promote the evils of an unchecked *paper system*, *the management of the revenue* can be made auxiliary to the reform which he is desirous to introduce. The designs of president Jackson against the state banks are more fully developed and enlarged upon in his annual message of 1836, from which I beg leave to quote the following passages.

'I beg leave to call your attention to another subject, intimately associated with the preceding one—*the currency of the country*

'It is apparent, from the whole context of the constitution, as well as the history of the times that gave birth to it, that it was the purpose of the convention to establish a currency consisting of *the precious metals*. These, from their peculiar properties, which rendered them the standard of value in all other countries, were adopted in this, as well to establish its commercial standard, in reference to foreign countries, by a permanent rule, as to exclude the use of a mutable medium of exchange, such as of certain agricultural commodities, recognised by the statutes of some states, as a tender for debts, or the still more pernicious expedient of a paper currency.'

'Variableness must ever be the characteristic of a currency of which the precious metals are not the chief ingredient, or which can be expanded or contracted, without regard to the principles that regulate the value of those metals as a standard in the general trade of the world. With us, bank issues constitute such a currency, and must ever do so, until they are made dependent on those just proportions of gold and silver, as a circulating medium, which experience has proved to be necessary, not only in this, but in all other commercial countries. Where those proportions are not infused into the circulation, and do not control it, it is manifest that prices must vary according to the tide of bank issues, and the value and stability of property must stand exposed to all the uncertainty which attends the administration of institutions that are constantly liable to the temptation of an interest distinct from that of the community in which they are established.'

'But although various dangers to our republican institutions have been obviated by the failure of that bank to extort from the government a renewal of its charter, it is obvious that little has been accomplished, except a salutary change of public opinion towards restoring to the country the sound currency provided for in the constitution. In the acts of several of the states prohibiting the circulation of small notes, and the auxiliary enactments of congress at the last session, forbidding their reception or payment on public account, the true policy of the country has been advanced, and a larger portion of the precious metals infused into our circulating medium. These measures will probably be followed up in due time, by the enactment of state laws, banishing from circulation bank notes of still higher denominations; and the object may be materially promoted by further acts of congress, forbidding the employment, as fiscal agents, of such banks as issue notes of low denominations, and throw impediments in the way of the circulation of gold

progress in monopolizing the most valuable of the public lands. It has tended to save the new states from a non-resident proprietorship; one of the greatest obstacles to the advancement of a new country, and the prosperity of an old one. It has tended to keep open the public lands for entry by emigrants at government prices, instead of their being compelled to purchase of speculators at double or treble prices. And it is conveying into the interior, large sums in silver and gold, there to enter permanently into the currency of the country, and place it on a firmer foundation. It is confidently believed that the country will find, in the motives which induced that order, and the happy consequences which have ensued, much to commend, and nothing to condemn.'

It is seen that he again calls the attention of congress to the currency of the country, alleges that it was apparent from the whole context of the constitution, as well as the history of the times that gave birth to it, that it was the purpose of the convention to establish a currency consisting of the *precious metals;* imputes variableness and a liability to inordinate contraction and expansion to the existing paper system, and denounces bank issues, as being an uncertain standard. He felicitates himself upon the dangers which have been obviated by the overthrow of the bank of the United States, but declares that little has been yet done, except to produce a salutary change of public opinion towards restoring to the country, the sound currency *provided for in the constitution.* I will here say, in passing, that all this outcry about the precious metals, gold, and the constitutional currency, has been put forth to delude the people, and to use the precious metals as an instrument to break down the banking institutions of the states, and to thus pave the way for the ultimate establishment of a great government bank. In the present advanced state of civilization, in the present condition of the commerce of the world, and in the actual relations of trade and intercourse between the different nations of the world, it is perfectly chimerical to suppose that the currency of the United States should consist exclusively, or principally, of the precious metals.

In the quotations which I have made from the last annual message of general Jackson, he speaks of the extension of bank credits, and the over-issues of bank paper, in the operations upon the sales of public lands. In his message of only the preceding year, the vast amount of those sales had been dwelt upon with peculiar complaisance, as illustrating the general prosperity of the country, and as proof of the wisdom of his administration. But now that which had been announced as a blessing, is deprecated as a calamity. Now, his object being to assail the banking institutions of the states, and to justify that fatal treasury order, which I shall hereafter have occasion to notice, he expresses his apprehension of the danger to which we are exposed of losing the public domain, and getting nothing for it but *bank credits.* He describes, minutely, the circular process by which the notes of the banks passed out of those institutions, to be employed in the purchase of the public lands, and returned again to them in the form of credits

:o the government. He forgets that Mr. Secretary Taney, to recon-
:cile the people of the United States to the daring measure of
:emoving the public deposits, had stimulated the banks to the
:xercise of great liberality in the grant of loans. He informs us,
n that message, that the safety of the public funds, and the inter-
:sts of the people generally, required that these copious issues of
:he banks should be checked, and that the conversion of the public
ands into mere bank credits should be arrested. And his meas-
are to accomplish these objects, was that famous treasury order,
already adverted to. Let us pause here for a moment, and contem-
plate the circumstances under which it was issued. The principle
of the order had been proposed and discussed in congress. But
one senator, as far as I know, in this branch of the legislature, and
not a solitary member, within my knowledge, in the house of
:epresentatives, was in favor of it. And yet, in about a week after
the adjournment of congress, the principle which met with no
countenance from the legislative authority, was embodied in the
form of a treasury edict, and promulgated under the executive
authority, to the astonishment of the people of the United States!

If we possessed no other evidence whatever of the hostility of
president Jackson to the state banks of the United States, that
order would supply conclusive proof. Bank notes, bank issues,
bank credits, were distrusted and denounced by him. It was

uselessly exacted, was transferred from one set of banks, to the derangement of the commerce and business of the country, and placed in the vaults of another set of banks in the interior, forming only those bank credits to the government upon which president Jackson placed so slight a value.

Finally, when general Jackson was about to retire from the cares of government, he favored his countrymen with a farewell address. The solemnity of the occasion gives to any opinions which he has expressed in that document a claim to peculiar attention. It will be seen on perusing it, that he denounces, more emphatically than in any of his previous addresses, the bank paper of the country, corporations, and what he chooses to denominate the spirit of monopoly. The senate will indulge me in calling its attention to certain parts of that address, in the following extracts.

'The constitution of the United States unquestionably intended to secure to the people, a circulating medium of gold and silver. But the establishment of a national bank by congress, with the privilege of issuing paper money, receivable in payment of the public dues, and the unfortunate cause of legislation in the several states upon the same subject, drove from general circulation the constitutional currency, and substituted one of paper in its place.'

'The mischief springs from the power which the moneyed interest derives from a paper currency, which they are able to control; from the multitude of corporations, with exclusive privileges, which they have succeeded in obtaining in the different states, and which are employed altogether for their benefit; and unless you become more watchful in your states, and check this spirit of monopoly, and thirst for exclusive privileges, you will, in the end, find that the most important powers of government have been given or bartered away, and the control over your dearest interests has passed into the hands of these corporations.'

'But it will require steady and persevering exertions on your part to rid yourselves of the iniquities and mischiefs of the paper system, and to check the spirit of monopoly and other abuses which have sprung up with it, and of which it is the main support. So many interests are united to resist all reform on this subject, that you must not hope that the conflict will be a short one, nor success easy. My humble efforts have not been spared, during my administration of the government, to restore the constitutional currency of gold and silver: and something, I trust, has been done towards the accomplishment of this most desirable object. But enough yet remains, to require all your energy and perseverance. The power, however, is in your hands, and the remedy must, and will be applied, if you determine upon it.'

The mask is now thrown off, and he boldly says that the constitution of the United States *unquestionably* intended to secure to the people a circulating medium of gold and silver. They have not enjoyed, he says, that benefit, because of the establishment of a national bank, *and the unfortunate course of legislation in the several states.* He does not limit his condemnation of the past policy of his country to the federal government, of which he had just ceased to be the chief, but he extends it to the states also, as if they were incompetent to judge of the interests of their respective citizens. He tells us that the mischief springs from the power which the moneyed interest derives from a paper currency, which they are able to control, and the multitude of corporations; and he stimulates the people to become more watchful in their several states, to check this spirit of monopoly. To invigorate their

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acceptance of the nomination of t
May 23d, 1835. In that letter he

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ored *instrument*, selected by the friends of th
*principles and policy*; and that, as well fr
honored with the choice of the American pe
footsteps of president Jackson; happy if I sl
has so gloriously *begun*.'

Mr. Van Buren announces that
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United States? No such thing; but duty to the friends of the then administration; and that duty required him to tread in the footsteps of his illustrious predecessor, and to perfect the work which he had begun! Now, the senate will bear in mind that the most distinguishing features of general Jackson's administration related to the currency; that he had denounced the banking institutions of the country; that he had overthrown the bank of the United States; that he had declared, when that object was accomplished, only one half the work was completed; that he then commenced war against the state banks, in order to finish the other half; that he constantly persevered in, and never abandoned, his favorite project of a great government treasury bank; and that he retired from the office of chief magistrate, pouring out, in his farewell address, anathemas against paper money, corporations, and the spirit of monopoly. When all these things are recollected, it is impossible not to comprehend clearly what Mr. Van Buren means, by carrying out the principles and policy of the late administration. No one can mistake that those principles and that policy require him to break down the local institutions of the states, and to discredit and destroy the paper medium which they issue. No one can be at a loss to understand, that, in following in the footsteps of president Jackson, and in perfecting the work which he begun, Mr. Van Buren means to continue attacking, systematically, the banks of the states, and to erect on their ruins, that great government bank, begun by his predecessor, and which he is the honored instrument selected to complete. The next proof which I shall offer is supplied by Mr. Van Buren's inaugural address, from which I request permission of the senate to read the following extract.

'In receiving from the people the sacred trust twice confided to my illustrious predecessor, and which he has discharged so faithfully and so well, I know that I cannot expect to perform the arduous task with equal ability and success. But, *united as I have been in his counsels*, a daily witness of his exclusive and unsurpassed devotion to his country's welfare, *agreeing with him in sentiments* which his countrymen have warmly supported, and permitted to partake *largely* of his confidence, I may hope that somewhat of the same cheering approbation will be found to attend upon my path.'

Here we find Mr Van Buren distinctly avowing, what the American people well knew before, that he had been united in the counsels of general Jackson; that he had agreed with him in sentiments, and that he had partaken largely of his confidence. This intimacy and confidential intercourse could not have existed without the concurrence of Mr. Van Buren in all those leading and prominent measures of his friend, which related to the establishment of a government bank, the overthrow of the bank of the United States, the attack upon the state institutions, and the denunciation of the paper currency, the spirit of monopoly, and corporations. Is it credible to believe that general Jackson should have

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specie does not admit of exact ascertainment; but when we reflect that the annual expenditures of the government were at the rate, including the post-office department, of about thirty-three millions of dollars, and that its income, made up either of taxes or loans, must be an equal sum, making together an aggregate of sixty-six millions, it will be seen that the amount of specie required for the use of government must be immensely large. It cannot be precisely determined, but would not be less, probably, than fifteen or twenty millions of dollars per annum. Now, how is it possible for the banks, coming into the specie market in competition with all the vast power and influence of the government, to provide themselves with specie, in a reasonable time to resume specie payments? That competition would have been avoided, if, upon the stoppage of the banks, the notes of those of whose solidity there was no doubt, had been continued to be received in payment of the public dues, as was done in Mr. Madison's administration. And why, Mr. President, should they not have been? Why should not this government receive the same description of medium which is found to answer all the purposes of the several state governments? Why should they have resorted to the expedient of issuing an inferior paper medium, in the form of treasury notes, and refusing to receive the better notes of safe and solid banks? Do not misunderstand me, Mr. President. No man is more averse than I am, to a permanent, inconvertible paper medium. It would have been as a temporary measure only, that I should have thought it expedient to receive the notes of good local banks. If, along with that measure, the treasury order had been repealed, and other measures adopted to encourage and coerce the resumption of specie payments, we should have been much nigher that desirable event, than, I fear, we now are. Indeed, I do not see when it is possible for the banks to resume specie payments, as long as the government is in the field, making war upon them, and in the market demanding specie.

Another conclusive evidence of the hostility to the state banks, on the part of Mr. Van Buren, is to be found in that extraordinary recommendation of a bankrupt law, contained in his message at the extra session. According to all the principles of any bankrupt system with which I am acquainted, the banks, by the stoppage of specie payment, had rendered themselves liable to its operation. If the recommended law had been passed, commissions of bankruptcy could have been immediately sued out against all the suspended banks, their assets seized, and the administration of them transferred from the several corporations to which it is now intrusted, to commissioners appointed by the president himself. Thus, by one blow, would the whole of the state banks have been completely prostrated, and the way cleared for the introduction of

ıe favorite treasury bank; and is it not in the same spirit of ınfriendliness to those banks, and with the same view of removing ll obstacles to the establishment of a government bank, that the ill was presented to the senate a few days ago by the senator rom Tennessee, (Mr. Grundy,) against the circulation of the notes f the old bank of the United States? At a time when there is ɔo much want of confidence, and when every thing that can be one, should be done, to revive and strengthen it, we are called ıpon to pass a law denouncing the heaviest penalty and ignominɔus punishment against all who shall reissue the notes of the old ank of the United States, of which we are told that about seven nillions of dollars are in circulation; and they constitute the best ortion of the paper medium of the country; the only portion of which has a credit every where, and which serves the purpose of general circulation; the only portion with which a man can avel from one end of the continent to the other; and I do not oubt that the senator who has fulminated these severe pains and enalties against that best part of our paper medium, provides imself with a sufficient amount of it, whenever he leaves Nashille, to take him to Washington.

[Here Mr. Grundy rose and remarked, no, sir; I always travel on specie.]

Ah! continued Mr. Clay, my old friend is always *specieous*. I

But it is unnecessary to dwell longer on the innumerable proofs of the hostility against the state banks, and the deliberate purpose of those in power to overthrow them. We hear and see daily, throughout the country, among their partisans and presses, denunciations against banks, corporations, rag barons, the spirit of monopoly, and so forth; and the howl for gold, hard money, and the constitutional currency; and no one can listen to the speeches of honorable members, friends of the administration, in this house and the other, without being impressed with a perfect conviction that the destruction of the state banks is meditated.

I have fulfilled my promise, Mr. President, to sustain the first four propositions with which I sat out. I now proceed to the fifth proposition.

Fifth, that the bill under consideration is intended to execute Mr. Van Buren's pledge, to complete and perfect the principles, plans, and policy, of the past administration, by establishing, upon the ruins of the late bank of the United States and the state banks, a government bank, to be managed and controlled by the treasury department, acting under the commands of the president of the United States.

The first impression made by the perusal of the bill is the prodigal and boundless discretion which it grants to the secretary of the treasury, irreconcilable with the genius of our free institutions, and contrary to the former cautious practice of the government. As originally reported, he was authorized by the bill to allow any number of clerks he thought proper to the various receivers-general, and to fix their salaries. It will be borne in mind that this is the mere commencement of a system; and it cannot be doubted that, if put into operation, the number of receivers-general, and other depositaries of the public money, would be indefinitely multiplied. He is allowed to appoint as many examiners of the public money, and to fix their salaries, as he pleases; he is allowed to erect at pleasure costly buildings; there is no estimate for any thing; and all who are conversant with the operations of the executive branch of the government know the value and importance of previous estimates. There is no other check upon wasteful expenditure but previous estimates; and that was a point always particularly insisted upon by Mr. Jefferson. The senate will recollect, that, a few days ago, when the salary of the receiver-general at New York was fixed, the chairman of the committee of finance rose in his place and stated, that it was *suggested* by the secretary of the treasury, that it should be placed at three thousand dollars; and the blank was accordingly so filled. There was no statement of the nature or extent of the duties to be performed, of the time that he would be occupied, of the extent of his responsibility, or the expense of living at the several points where they were to be located; nothing but the *suggestion* of the secretary of the treasury,

and that was deemed all-sufficient by a majority. There is no limit upon the appropriation which is made to carry into effect the bill, contrary to all former usage, which invariably prescribed a sum not to be transcended.

A most remarkable feature in the bill is that to which I have already called the attention of the senate, and of which no satisfactory explanation has been given. It is that which proceeds upon the idea, that the treasury is a thing distinct from the treasure of the United States, and gives to the treasury a local habitation and a name, in the new building which is erecting for the treasury department in the city of Washington. In the treasury, so constituted, is to be placed that pittance of the public revenue which is gleaned from the District of Columbia. All else, that is to say, nine hundred and ninety-nine hundredths of the public revenue of the United States, is to be placed in the hands of the receivers-general, and the other depositaries beyond the District of Columbia. Now, the constitution of the United States provides that no money shall be drawn from the public treasury, but in virtue of a previous appropriation by law. That trifling portion of it, therefore, which is within the District of Columbia, will be under the safeguard of the constitution, and all else will be at the arbitrary disposal of the secretary of the treasury.

It was deemed necessary, no doubt, to vest in the secretary of

*convenience of the public service*, shall seem to him to require. There is no specification of any contingency or contingencies, on which he is to act. All is left to his discretion. He is to judge when the public service, (and more indefinite terms could not have been employed,) shall seem to him to require it. It has been said, that this is nothing more than the customary power of transfer, exercised by the treasury department, from the origin of the government. I deny it; utterly deny it. It is a totally different power from that which was exercised by the cautious Gallatin, and other secretaries of the treasury — a power, by-the-bye, which, on more than one occasion, has been controverted, and which is infinitely more questionable than the power to establish a bank of the United States. The transfer was made by them rarely, in large sums, and were left to the banks to remit. When payments were made, they were effected in the notes of banks with which the public money was deposited, or to which it was transferred. The rates of exchange were regulated by the state of the market, and under the responsibility of the banks. But here is a power given to transfer the public moneys without limit, as to sum, place, or time, leaving every thing to the discretion of the secretary of the treasury, the receivers-general, and other depositaries. What a scope is allowed in the fixation of the rates of exchange, whether of premium or discount, to regulate the whole domestic exchanges of the country, to exercise favoritism? These former transfers were not made for disbursement, but as preparatory to disbursement; and when disbursed, it was generally in bank notes. The transfers of this bill are immediate payments, and payments made not in bank notes, but specie.

The last paragraph in the section provides, that, for the purpose of payments on the public account, it shall be lawful for the secretary *to draw upon any of the said depositaries, as he may think most conducive to the public interest*, or to the convenience of the public creditors, or both. It will be seen, that no limit whatever is imposed upon the amount or form of the draft, or as to the depositary upon which it is drawn. He is made the exclusive judge of what is 'most conducive to the public interests.' Now, let us pause a moment, and trace the operation of the powers thus vested. The government has a revenue of from twenty to thirty millions. The secretary may draw it to any one or more points, as he pleases. More than a moiety of the revenue arising from customs is receivable at the port of New York, to which point the secretary may draw all portions of it, if he think it conducive to the public interest. A man has to receive, under an appropriation law, ten thousand dollars, and applies to Mr. Secretary for payment. Where will you receive it? he is asked. On New York. How? In drafts from five dollars to five hundred dollars. Mr. Secretary will give him these drafts accordingly, upon bank note paper, impressed like and

simulating bank notes, having all suitable emblazonry, signed by my friend the treasurer, (whose excellent practical sense, and solid and sound judgment, if he had been at the head of the treasury, instead of Mr. Levi Woodbury, when the suspension of specie payments took place, would have relieved or mitigated the pecuniary embarrassments of the government and the people,) countersigned by the comptroller, and filled up in the usual way of bank notes. .Here is one of them, said Mr. Clay. (He here held up, to the gaze of the senate, a treasury note, having all the appearance of a bank note, colored, engraved, and executed, like any other bank note, for fifty dollars.) This, continued Mr. Clay, is a government *post* note, put into circulation, paid out as money, and prepared and sent forth, gradually to accustom the people of this country to government paper.

I have supposed ten thousand dollars to be received in the mode stated by a person entitled to receive it under an appropriation law. Now, let us suppose what he will do with it. Any where to the south or west it will command a premium of from two to five per centum. Nowhere in the United States will it be under par. Do you suppose that the holder of these drafts would be fool enough to convert them into specie, to be carried and transported at his risk? Do you think that he would not prefer that his money should be in the responsible custody of the government, rather than in his

been introduced to render them unassignable. But how will it be possible to maintain such an inconvenient restriction, in a country where every description of paper importing an obligation to pay money or deliver property is assignable, at law or in equity, from the commercial nature and trading character of our people.

Of all the faculties which I have stated of a bank, that which creates a circulation is the most important to the community at large. It is that in which thousands may be interested, who never obtained a discount, or made a deposit with a bank. Whatever a government agrees to receive in payment of the public dues is a medium of circulation; is money, current money, no matter what its form may be — treasury notes, drafts drawn at Washington, by the treasurer, on the receiver-general at New York, or, to use the language employed in various parts of this bill, 'such notes, bills, or paper, issued under the authority of the United States.' These various provisions were probably inserted not only to cover the case of treasury notes, but that of these drafts in due season. But if there were no express provision of law, that these drafts should be receivable in payment of public dues, they would, necessarily, be so employed, from their own intrinsic value.

The want of the community of a general circulation of uniform value every where in the United States, would occasion vast amounts of the species of draft which I have described to remain in circulation. The appropriations this year will probably fall not much short of thirty millions. Thirty millions of treasury drafts on receivers general, of every denomination, and to any amount, may be issued by the secretary of the treasury. What amount would remain in circulation cannot be determined *a priori*, I suppose not less than ten or fifteen millions; at the end of another year, some ten or fifteen millions more; they would fill all the channels of circulation. The war between the government and state banks continuing, and this mammoth government bank being in the market, constantly demanding specie for its varied and ramified operations, confidence would be lost in the notes of the local banks, their paper would gradually cease to circulate, and the banks themselves would be crippled and broken. The paper of the government bank would ultimately fill the vacuum, as it would instantly occupy the place of the notes of the late bank of the United States.

I am aware Mr. President, that by the twenty-fifth section of the bill, in order to disguise the purpose of the vast machinery which we are about constructing, it is provided that it shall be the duty of the secretary of the treasury, to issue and publish regulations to enforce the speedy presentation of all government drafts for payment at the place where payable, and so forth. Now, what a tremendous power is here vested in the secretary! He is to prescribe rules and regulations to enforce the *speedy* presentation

of all government drafts for payment at the place where payable The speedy presentation! In the case I have supposed, a man has his ten thousand dollars, in drafts on the receiver-general at New York. The secretary is empowered to enact regulations requiring him speedily to present them, and if he do not, the secretary may order them to be paid at St. Louis. At New York they may be worth a premium of five per centum; on St. Louis, they may be liable to a discount of five per centum. Now, in a free government, who would ever think of subjecting the property or money of a citizen to the exercise of such a power by any secretary of the treasury? What opportunity does it not afford to reward a partisan, or punish an opponent? It will be impossible to maintain such an odious and useless restriction for any length of time. Why should the debtor, (as the government would be, in the case of such drafts as I have supposed,) require his creditor, (as the holder of the draft would be,) to apply within a prescribed time for his payment? No, sir; the system would control you; you could not so control the system. But if such a ridiculous restriction could be continued, the drafts would, nevertheless, whilst they were out, be the time long or short, perform the office of circulation and money.

Let us trace a little further the operation of this government bank, and follow it out to its final explosion. I have supposed the

hands of the receiver-general, represented by sixty millions of government drafts in circulation, it would be known that twenty of that sixty millions would be sufficient to retain to meet any amount of drafts, which, in ordinary times, would be presented for payment. There would then remain forty millions in the vaults, idle and unproductive, and of which no practical use could be made. Well; a great election is at hand in the state of New York, the result of which will seal the fate of an existing administration. If the application of ten millions of that dormant capital could save, at some future day, a corrupt executive from overthrow, can it be doubted, that the ten millions would be applied to preserve it in power? Again; let us suppose some great exigency to arise; a season of war, creating severe financial pressure and embarrassment. Would not an issue of paper, founded upon and exceeding the specie in the vaults, in some such proportions as experience had demonstrated might be safely emitted, be authorized? Finally, the whole amount of specie might be exhausted, and then, as it is easier to engrave and issue bank notes, than to perform the unpopular office of imposing taxes and burdens, the discovery would be made, that the *credit* of the government was a sufficient basis whereupon to make emissions of paper money, to be redeemed when peace and prosperity returned. Then we should have the days of continental money, and of assignats, restored! Then we should have that government paper medium which the senator from South Carolina, (Mr. Calhoun,) considers the most perfect of all currency!

Meantime, and during the progress of this vast government machine, the state banks would be all prostrated. Working well, as it may, if honestly administered, in the first period of its existence, it will be utterly impossible for them to maintain the unequal competition. They could not maintain it, even if the government were actuated by no unfriendly feelings towards them. But when we know the spirit which animates the present executive towards them, who can doubt that they must fall in the unequal contest? Their issues will be discredited and discountenanced, and that system of bankruptcy which the president would even now put into operation against them, will, in the sequel, be passed and enforced without difficulty.

Assuming the downfall of the local banks — the inevitable consequence of the operations of this great government bank; assuming, as I have shown would be the case, that the government would monopolize the paper issues of the country, and obtain the possession of a great portion of the specie of the country, we should then behold a combined and concentrated moneyed power, equal to that of all the existing banks of the United States, with that of the late bank of the United States superadded. This tremendous power would be wielded by the secretary of the treasury

acting under the immediate commands of the president of the United States. Here would be a perfect union of the sword and the purse; here would be no imaginary, but an actual, visible, tangible, consolidation of the moneyed power. Who or what could withstand it? The states themselves would become suppliants at the feet of the executive for a portion of those paper emissions, of the power to issue which they had been stripped, and which he now exclusively possessed.

Mr. President, my observation and experience have satisfied me, that the safety of liberty and property consists in the division of power, whether political or pecuniary. In our federative system, our security is to be found in that happy distribution of power which exists between the federal government and the state governments. In our monetary system, as it lately existed, its excellence resulted from that beautiful arrangement, by which the states had their institutions for local purposes, and the general government its institution for the more general purposes of the whole union. There existed the greatest congeniality between all the parts of this admirable system. All was homogeneous. There was no separation of the federal government from the states or from the people. There was no attempt to execute practically, that absurdity of sustaining, among the same people, two different currencies of unequal value. And how admirably did the whole system, during

in his meridian greatness, to displace the farmers-general, and to substitute in their place the receivers-general. The new system requires, I think I have heard it stated, something like one hundred thousand employees to have it executed. And, notwithstanding the modesty of the infant promises of this new project, I have no doubt that ultimately we shall have to employ a number of persons approximating to that which is retained in France. That will undoubtedly be the case whenever we shall revive the system of internal taxation. In France, what reconciled them to the system was, that Napoleon first, and the Bourbons afterwards, were pleased with the immense patronage which it gave them. They liked to have one hundred thousand dependents to add strength to the throne, which had been recently constructed or reascended. I thought, however, that the learned chairman of the committee of finance must have had some other besides the French model for his receivers-general; and, accordingly, upon looking into Smith's history of his own state, I found, that, when it was yet a colony, some century and a half ago, and when its present noble capital still retained the name of New Amsterdam, the historian says; 'among the principal laws enacted at this session, we may mention that for establishing the revenue, which was drawn into precedent. The sums raised by it were made payable into the hands of receivers-general, and issued by the governor's warrant. By this means the governor became, for a season, independent of the people, and hence we find frequent instances of the assemblies contending with him for the discharge of debts to private persons, contracted on the faith of the government.' The then governor of the colony was a man of great violence of temper, and arbitrary in his conduct. How the sub-treasury system of that day operated the same historian informs us in a subsequent part of his work. 'The revenue,' he says, 'established the last year, was at this session continued five years longer than was originally intended. This was rendering the governor independent of the people. For, at that day, the assembly had no treasure, but the amount of all taxes went, of course, into the hands of the receiver-general, who was appointed by the crown. Out of this fund, moneys were only issuable by the governor's warrant, so that every officer in the government, from Mr. Blaithwait, who drew annually five per centum out of the revenue, as auditor-general, down to the meanest servant of the public, became dependent, solely, of the governor. And hence we find the house, at the close of every session, humbly addressing his excellency, for the trifling wages of their own clerk.' And, Mr. President, if this measure should unhappily pass, the day may come, when the senate of the United States will have humbly to implore some future president of the United States to grant it money to pay the wages of its own sergeant-at-arms, and doorkeeper.

Who, Mr. President, are the most conspicuous of those, who perseveringly pressed this bill upon congress and the American people? Its drawer is the distinguished gentleman in the white house, not far off; its endorser is the distinguished senator from South Carolina, here present. What the drawer thinks of the endorser, his cautious reserve and stifled enmity prevent us from knowing. But the frankness of the endorser has not left us in the same ignorance with respect to his opinion of the drawer. He has often expressed it upon the floor of the senate. On an occasion not very distant, denying to him any of the nobler qualities of the royal beast of the forest, he attributed to him those which belong to the most crafty, most skulking, and one of the meanest of the quadruped tribe. Mr. President, it is due to myself to say, that I do not altogether share with the senator from South Carolina in this opinion of the president of the United States. I have always found him, in his manners and deportment, civil, courteous, and gentlemanly; and he dispenses, in the noble mansion which he now occupies, one worthy the residence of the chief magistrate of a great people, a generous and liberal hospitality. An acquaintance with him, of more than twenty years' duration, has inspired me with a respect for the man, although, I regret to be compelled to say, I detest the magistrate.

The eloquent senator from South Carolina has intimated that

we were so long engaged, was about to terminate in a glorious victory. The very object for which the alliance was formed, was about to be accomplished. At this critical moment the senator left us; he left us for the very purpose of preventing the success of the common cause. He took up his musket, knapsack, and shot-pouch, and joined the other party. He went, horse, foot, and dragoon, and he himself composed the whole corps. He went, as his present most distinguished ally commenced with his expunging resolution, *solitary and alone*. The earliest instance recorded in history, within my recollection, of an ally drawing off his forces from the combined army, was that of Achilles, at the siege of Troy. He withdrew with all his troops, and remained in the neighborhood, in sullen and dignified inactivity. But he did not join the Trojan forces; and when, during the progress of the siege, his faithful friend fell in battle, he raised his avenging arm, drove the Trojans back into the gates of Troy, and satiated his vengeance by slaying Priam's noblest and dearest son, the finest hero in the immortal Iliad. But Achilles had been wronged, or imagined himself wronged, in the person of the fair and beautiful Briseis. We did no wrong to the distinguished senator from South Carolina. On the contrary, we respected him, confided in his great and acknowledged ability, his uncommon genius, his extensive experience, his supposed patriotism; above all, we confided in his stern and inflexible fidelity. Nevertheless, he left us, and joined our common opponents, distrusting and distrusted. He left us, as he tells us in his Edgefield letter, because the victory which our common arms were about to achieve, was not to enure to him and his party, but exclusively to the benefit of his allies and their cause. I thought that, actuated by patriotism, (that noblest of human virtues,) we had been contending together for our common country, for her violated rights, her threatened liberties, her prostrate constitution. Never did I suppose that personal or party considerations entered into our views. Whether, if victory shall ever again be about to perch upon the standard of the spoils party, (the denomination which the senator from South Carolina has so often given to his present allies,) he will not feel himself constrained, by the principles on which he has acted, to leave them, because it may not enure to the benefit of himself and his party, I leave to be adjusted between themselves.

The speech of the senator from South Carolina was plausible, ingenious, abstract, metaphysical, and generalizing. It did not appear to me to be adapted to the bosoms and business of human life. It was aërial, and not very high up in the air, Mr. President, either, not quite as high as Mr. Clayton was in his last ascension in his balloon. The senator announced that there was a single alternative, and no escape from one or the other branch of it. He stated that we must take the bill under consideration, or the substi-

tute proposed by the senator from Virginia. I do not concur in that statement of the case. There is another course embraced in neither branch of the senator's alternative; and that course is, to do nothing; always the wisest, when you are not certain what you ought to do. Let us suppose that neither branch of the alternative is accepted, and that nothing is done. What, then, would be the consequence? There would be a restoration of the law of 1789, with all its cautious provisions and securities, provided by the wisdom of our ancestors, which has been so trampled upon by the late and present administrations. By that law, establishing the treasury department, the treasure of the United States is to be received, kept, and disbursed, by the treasurer, under a bond with ample security, under a large penalty fixed by law, and not left, as this bill leaves it, to the uncertain discretion of a secretary of the treasury. If, therefore, we were to do nothing, that law would be revived; the treasurer would have the custody, as he ought to have, of the public money, and doubtless he would make special deposits of it, in all instances, with safe and sound state banks, as in some cases the secretary of the treasury is now obliged to do. Thus, we should have in operation that very special deposit system, so much desired by some gentlemen, by which the public money would remain separate and unmixed with the money of banks. There is yet another course, unembraced by either branch of the alternative presented by the senator from South Carolina; and that is, to establish a bank of the United States, constituted according to the old and approved method of forming such an institution, tested and sanctioned by experience; a bank of the United States, which should blend public and private interests, and be subject to public and private control, united together in such manner as to present safe and salutary checks against all abuses. The senator mistakes his own abandonment of that institution as ours. I know that the party in power has barricaded itself against the establishment of such a bank. It adopted, at the last extra session, the extraordinary and unprecedented resolution, that the people of the United States should not have such a bank, although it might be manifest that there was a clear majority of them demanding it. But the day may come, and I trust is not distant, when the will of the people must prevail in the councils of their own government; and, when it does arrive, a bank will be established.

The senator from South Carolina reminds us that we denounced the pet bank system; and so we did, and so we do. But does it therefore follow, that, bad as that system was, we must be driven into the acceptance of a system infinitely worse? He tells us that the bill under consideration takes the public funds out of the hands of the executive, and places them in the hands of the law. It does no such thing. They are now without law, it is true, in the custody of the executive; and the bill proposes by law to confirm them in

that custody, and to convey new and enormous powers of control to the executive over them. Every custodary of the public funds, provided by the bill, is a creature of the executive, dependent upon his breath, and subject to the same breath for removal, whenever the executive, from caprice, from tyranny, or from party motives, shall choose to order it. What safety is there for the public money, if there were a hundred subordinate executive officers charged with its care, whilst the doctrine of the absolute unity of the whole executive power, promulgated by the last administration, and persisted in by this, remains unrevoked and unrebuked.

Whilst the senator from South Carolina professes to be the friend of state banks, he has attacked the whole banking system of the United States. He is their friend; he only thinks they are all unconstitutional! Why? Because the coining power is possessed by the general government, and that coining power, he argues, was intended to supply a currency of the precious metals; but the state banks absorb the precious metals, and withdraw them from circulation, and, therefore, are in conflict with the coining power. That power, according to my view of it, is nothing but a naked authority to stamp certain pieces of the precious metals, in fixed proportions of alloy and pure metal, prescribed by law, so that their exact value may be known. When that office is performed, the power is *functus officio;* the money passes out of the mint, and becomes the lawful property of those who legally acquire it. They may do with it as they please, throw it into the ocean, bury it in the earth, or melt it in a crucible, without violating any law. When it has once left the vaults of the mint, the law-maker has nothing to do with it, but to protect it against those who attempt to debase or counterfeit, and, subsequently, to pass it as lawful money. In the sense in which the senator supposes banks to conflict with the coining power, foreign commerce, and especially our commerce with China, conflict with it much more extensively. That is the great absorbent of the precious metals, and is, therefore, much more unconstitutional than the state banks. Foreign commerce sends them out of the country; banks retain them within it. The distinguished senator is no enemy to the banks; he merely thinks them injurious to the morals and industry of the country. He likes them very well, but he nevertheless believes that they levy a tax of twenty-five millions annually on the industry of the country! Let us examine, Mr. President, how this enormous and iniquitous assessment is made, according to the argument of the senator from South Carolina. He states that there is a mass of debt due from the community to the banks, amounting to four hundred and seventy-five millions of dollars, the interest upon which, constituting about that sum of twenty-five millions of dollars, forms the exceptionable tax. Now, this sum is not paid by the whole community, but only by those individuals who obtain discounts from

the banks. They borrow money at six per centum interest, and invest it in profitable adventures, or otherwise employ it. They would not borrow it if they did not suppose they could make profit by it; and the probability is, that they do make profit by it. Instead, therefore, of there being any loss in the operation, there is an actual gain to the community, by the excess of profit made beyond six per centum interest, which they pay. What are banks? They are mere organized agencies, for the loan of money, and the transaction of monetary business; regulated agencies, acting under the prescriptions of law, and subject to a responsibility, moral and legal, far transcending that under which any private capitalist operates. A number of persons, not choosing to lend out their money privately, associate together, bring their respective capitals into a common stock, which is controlled and managed by the corporate government of a bank. If no association whatever had been formed, a large portion of this capital, a large portion, therefore, of that very debt of four hundred and seventy-five millions of dollars, would still exist, in the shape of private loans. The senator from South Carolina might as well collect the aggregate amount of all the mortgages, bonds, and notes, which have been executed in the United States, for loans, and assert that the interest paid upon the total sum, constituted a tax, levied upon the community.

In the liquidation of the debt due to the banks from the com-

gishness, slothfulness, and inactivity. England, in modern times, illustrates the great advantages of banks, of credit, and of stimulated industry. Contrast her with Spain, destitute of all those advantages. In ancient times, Athens would present an image of full and active employment of all the energies of man, carried to the highest point of civilization, whilst her neighbor, Sparta, with her iron money, affords another of the boasted benefits of metallic circulation.

The senator from South Carolina would do the banks no harm; but they are deemed by him highly injurious to the planting interest! According to him, they inflate prices, and the poor planter sells his productions for hard money, and has to purchase his supplies at the swollen prices produced by a paper medium. Now, I must dissent altogether from the senator's statement of the case. England, the principal customer of the planter, is quite as much, if not more, a paper country than ours. And the paper-money prices of the one country are neutralized by the paper-money prices of the other country. If the argument were true, that a paper-money country trades disadvantageously with a hard-money country, we ought to continue to employ a paper medium, to counterbalance the paper medium of England. And if we were to banish our paper, and substitute altogether a metallic currency, we should be exposed to the very inequality which has been insisted upon. But there is nothing in that view of the matter which is presented by the senator from South Carolina. If, as he asserts, prices were always inflated in this country, beyond their standard in England, the rate of exchange would be constantly against us. An examination, however, into the actual state of exchange between the two countries, for a long series of years, evinces that it has generally been in our favor. In the direct trade between England and this country, I have no doubt there is a large annual balance against us; but that balance is adjusted and liquidated by balances in our favor in other branches of our foreign trade, which have finally concentrated in England, as the great centre of the commercial world.

Of all the interests and branches of industry in this country, none has profited more by the use and employment of credit and capital derived from banks and other sources, than the planting interest. It habitually employs credit in all countries where planting agriculture prevails. The states of Alabama, Mississippi, Arkansas, and Louisiana, have almost sprung into existence, as it were, by magic, or, at least, have been vastly improved and extended, under the influence of the credit system. Lands, slaves, utensils, beasts of burden, and other supplies, have been constantly bought, and still continue to be purchased, upon credit; and bank agency is all essential to give the most beneficial operation to these credits. But the argument of the senator from South Carolina,

which I am combating, would not be correct, if it were true that we have inflated prices on this side of the Atlantic, without a corresponding inflation of price on the other side; because the planter generally selling at home, and buying at home, the proceeds of his sale, whatever they may be, constitute the means by which he effects his purchases, and consequently neutralize each other. In what do we of the west receive payment for the immense quantity of live stock and other produce of our industry, which we annually sell to the south and southwest, but that paper medium now so much decried and denounced? The senator from South Carolina is very fond of the state banks; but he thinks there is no legitimate currency except that of the constitution. He contends that the power which the government possesses to impose taxes, restricts it, in their payment, to the receipt of the precious metals. But the constitution does not say so. The power is given in broad and unrestricted terms; and the government is left at liberty to collect the taxes in whatever medium or commodity, from the exigencies of the case, it can collect them. It is, doubtless, much the most convenient to collect them in money, because that represents, or can command, every thing, the want of which is implied by the power of taxation. But suppose there was no money in the country; none, whatever, to be extorted by the tax-gatherer from an impoverished people? Is the power of government to cease, and the people to be thrown back into a state of nature? The senator

in diminished proportions, during a term of six years. He himself introduced that identical principle. It is the only part of the bill that is emphatically his. How, then, can he contend that it is unconstitutional to receive bank notes in payment of public dues? I appeal from himself to himself. The senator further contends, that general deposits cannot be made with banks, and be thus confounded with the general mass of the funds on which they transact business. The argument supposes that the money collected for taxes must be preserved in identity; but that is impossible, often, to do. May not a collector give the small change which he has received from one tax-payer, to another tax-payer, to enable him to effect his payment? May he not change gold for silver, or *vice versa*, or both, if he be a distant collector, to obtain an undoubted remittance to the public treasury? What, Mr. President, is the process of making deposits with banks? The deposit is made, and a credit is entered for its amount to the government. That credit is supposed to be the exact equivalent of the amount deposited, ready and forthcoming to the government whenever it is wanted for the purposes of disbursement. It is immaterial to the government whether it receives back again the identical money put in, or other money of equal value. All that it wants is, what it put in the bank, or its equivalent; and that, in ordinary times, with such prudent banks as alone ought to be selected, it is sure of getting. Again: the treasury has frequently to make remittances to foreign countries, to meet the expenditure necessary there for our naval squadrons, and other purposes. They are made to the bankers, to the Barings or the Rothschilds, in the form of bills of exchange, purchased in the market by the agents of the government here, with money drawn out of the treasury. Here is one conversion of the money received from the tax-gatherer into the treasury. The bills are transmitted to the bankers, honored, paid, and the amount credited by them to the United States. Are the bankers bound to retain the proceeds of the bills in identity? Are they bound to do more than credit the government for an equal amount, for which they stand responsible, whenever it is wanted? If they should happen to use any portion of those very proceeds of bills remitted to them in their banking operations, would it be drawing money from the treasury, contrary to the provisions of the constitution? The senator from South Carolina contends, that there is no constitutional power to contract with the twenty-five selected banks, as proposed in the substitute; yet the deposit act of 1836, which obtained the hearty approbation of that senator, contained a similar provision; and the very bill under consideration, so warmly supported by him, provides, under certain contingencies, for contracts to be made with state banks, to receive deposits of the public money upon compensation. He objects to the substitute, that it converts twenty-five state banks into a system

of federal institutions; but the employment of state institutions by the federal authority, no more makes them federal, than the employment of federal institutions by the states, converts them into state institutions. This mutual aid, and this reciprocal employment of the several institutions of the general and particular governments, is one of the results and beauties of our admirable, though complex system of government. The general government has the use of the capital, court-houses, prisons, and penitentiaries, in the several states. Do they, therefore, cease to appertain to the states? It is to be borne in mind, that although the state banks may occasionally be used by the federal authority, their legal responsibility to the several states remains unimpaired. They continue to be accountable to them, and their existence can only be terminated or prolonged by the state authority. And being governed, as they are, by corporate authority, emanating from, and amenable to, state jurisdiction, and not under the control of the executive of the United States, constitutes at once a greater security for the public money, and more safety to the public liberty. It has been argued that a separation of the government from the banks will diminish the executive power. It must be admitted that the custody of the public money in various banks, subject to the control of state authority, furnishes some check upon the possible abuses of the executive government. But the argument maintains, that the executive has least power when it has most

death with which it is charged; I take the latter, as being, at the most, harmless, and depend upon the *vis medicatrix natura*. It would have been a great improvement, in my opinion, if the mode of bringing about the resumption of specie payments, contained in the substitute, were reversed: that is to say, if instead of fixing on the first of July for resumption, it had provided that the notes of a certain number of safe, sound, and unquestionable banks to be selected, should be forthwith received, by the general government, in payment of all public dues; and that, if the selected banks did not resume, by a future designated day, their notes should cease to be taken. Several immediate effects would follow: first, the government would withdraw from the market as a competitor with the banks for specie, and they would be left undisturbed to strengthen themselves. And, secondly, confidence would be restored, by taking off the discredit, and discountenance thrown upon all banks by the government. And why should these notes not be so received? They are as good as treasury notes, if not better. They answer all the purposes of the state governments and the people. They now would buy as much as specie could have commanded at the period of suspension. They could be disbursed by the government. And, finally, the measure would be temporary.

But the true and only efficacious and permanent remedy, I solemnly believe, is to be found in a bank of the United States, properly organized and constituted. We are told that such a bank is fraught with indescribable danger; and that the government must, in the sequel, get possession of the bank, or the bank of the government. I oppose to these imaginary terrors the practical experience of forty years. I oppose to them the issue of the memorable contest, commenced by the late president of the United States, against the late bank of the United States. The administration of that bank had been without serious fault. It had given no just offence to the government, towards which it had faithfully performed every financial duty. Under its able and enlightened president, it had fulfilled every anticipation which had been formed by those who created it. President Jackson pronounced the edict that it must fall, and it did fall, against the wishes of an immense majority of the people of the United States; against the convictions of its utility entertained by a large majority of the states; and to the prejudice of the best interests of the whole country. If an innocent, unoffending, and highly beneficial institution could be thus easily destroyed by the power of one man, where would be the difficulty of crushing it, if it had given any real cause for just animadversion? Finally, I oppose to these imaginary terrors the example deducible from English history. There a bank has existed since the year 1694, and neither has the bank got possession of the government, nor the government of the bank. They have

existed in harmony together, both conducing to the prosperity of that great country; and they have so existed, and so contributed, because each has avoided cherishing towards the other that wanton and unnecessary spirit of hostility which was unfortunately engendered in the bosom of the late president of the United States.

I am admonished, sir, by my exhausted strength, and by, I fear, your more exhausted patience, to hasten to a close. Mr. President, a great, novel, and untried measure, is perseveringly urged upon the acceptance of congress. That it is pregnant with tremendous consequences, for good or evil, is undeniable, and admitted by all. We firmly believe that it will be fatal to the best interests of this country, and ultimately subversive of its liberties. You, who have been greatly disappointed in other measures of equal promise, can only hope, in the doubtful and uncertain future, that its operation may prove salutary. Since it was first proposed at the extra session, the whole people have not had an opportunity of passing in judgment upon it at their elections. As far as they have, they have expressed their unqualified disapprobation. From Maine to the state of Mississippi, its condemnation has been loudly thundered forth. In every intervening election, the administration has been defeated, or its former majorities neutralized. Maine has spoken; New York, Pennsylvania, Maryland, Ohio, Rhode Island, Mississippi, and Michigan, all these states, in tones and terms not to be misunderstood, have denounced the measure. The key-stone

and respectable communities are despised and contemned by those whom they have sent here? I call upon the honorable senator from Alabama, (Mr. King,) with whom I have so long stood in the public councils, shoulder to shoulder, bearing up the honor and the glory of this great people, to come now to their rescue. I call upon all the senators; let us bury deep and for ever the character of the partisan, rise up patriots and statesmen, break the vile chains of party, throw the fragments to the winds, and feel the proud satisfaction that we have made but a small sacrifice to the paramount obligations which we owe our common country.

# ON THE DOCTRINE OF INSTRUCTION.

## IN THE SENATE OF THE UNITED STATES, JANUARY 14, 1839.

[THE legislature of North Carolina, elected in 1838, contained a majority of whig nembers, and that state being at the time represented in the senate of the United States by Messrs. Brown and Strange, both of whom were supporters of Van Buren's dministration, the legislature passed sundry resolutions, disapproving of the policy of the administration, and condemning the action of the senate in expunging the esolution against general Jackson at the close of his administration. In reply to he North Carolina senators, who gave their reasons for not obeying these instructions, Mr. Clay made the following remarks, giving his views of the doctrine of nstruction, and of the peculiar case under consideration.]

I COULD have wished that some other senator had thought proper o make the few observations that are called for, by the present

[Mr. Brown said he so spake of one of the resolutions, but he thought it his duty to his state to present them, notwithstanding, and in no possible contingency could he have refused to present them.]

Mr. Clay said, I so understood the senator, that one of the resolutions was disrespectful; but he now says, that, in deference to his legislature, he still ought to present them. Sir, if there was indecorum in the language, I repeat, that it was his duty, under the rules of the senate, not to present the resolutions at all.

[Mr. Brown said there was a very marked distinction between the legislature of a sovereign state and individuals, on this subject.]

I am not aware, said Mr. Clay, that there is any such distinction expressed in the rules; and if the legislature of a state uses disrespectful language, it is no more to be received than if it were from a private citizen. But let that pass.

In what respect are these resolutions disrespectful? The senate, two or three years ago, adopted a resolution, by a vote of the majority of the body, which resolution was afterwards ordered to be expunged from the journal; and now the legislature of North Carolina say that it was, in their opinion, an act of party servility to the national executive then in power. Now let us suppose that either branch of congress had really been guilty of an act of party servility to the executive, have not legislative bodies a right to express it, in this or any other country? But whether that act was one of servility or not, is a question on which history will in due time pass its decision. But as I have said on every occasion, here and elsewhere, it was in my opinion, derogatory to this body, and history will pronounce upon it the severest censure.

But the senators from North Carolina have both declared, that they would have obeyed these resolutions, if they had been mandatory in their language, instead of their being a simple expression of the will of their legislature. But let us examine the nature and extent of this apology. What is the basis, and what the principle of the doctrine of instruction? Sir, to a certain extent, I have always believed in this doctrine, and have been ever ready to conform to it. But I hold to the doctrine as it stood in 1798; that in general, on questions of expediency, the representative should conform to his instructions, and so gratify the wishes, and obey the will, of his constituents, though on questions of constitutionality his course might be different; and, therefore, when the senator last up, (Mr. Strange,) declared that he would rather submit to a certain operation, than to give his vote declaring that there had been a violation of the constitution, I felt some alarm, lest the true doctrine of instruction should itself be subverted. And it did not appear to occur to him at the time, that there was another alternative besides obeying — that is, to resign.

And what is the doctrine of instructions, as it is held by all?

Is it not that we are to conform to the wishes of our constituents? Is it not that we are to act, not in our own, but in a delegated character? And will any who stand here, pretend, that whenever they know the wishes or will of those who sent them here, they are not bound to conform to that will entirely? Is it not the doctrine, that we are nothing more than the mirror to reflect the will of those who called us to our dignified office? That is the view which I take of the doctrine of instructions.

And I now ask, is any peculiar language necessary, other than that by which the will of our constituents may be understood and carried out? is there but one word that will answer — no other word, but the word *instruct?* Is there no other language tantamount to that? If the legislature simply express their will, is that not equivalent to the word *instruct?* Nay, more, is it not more respectful to those receiving the instructions, to avoid, than to use the word *instructions?* Infinitely more so; and I am more ready to comply with the wishes of any one, if he speaks to me in a courteous and polite manner, than if he made use of mandatory language. Sir, I say to my man Charles, please to do so and so, and he does it instantly, and with much more pleasure, than if I was more peremptory. Suppose I should say, Charles, I instruct you; he would think it very curious language; but if I say, I would be obliged to you for my shoes or boots, he goes down and brings

these resolutions by the legislature of North Carolina were not here, that we might have had the benefit of the knowledge of their wishes, during the last week, when the debate on the subject was in progress. But I am glad they have come in before the passage of the bill, and I hope, at least, on the subject of the public lands, we shall have the vote of the senators from North Carolina, in opposition to the wild schemes which have been denounced by the resolutions of the legislature laid before us.

Mr. Clay said he was exceedingly sorry he had been instrumental in throwing the senator from North Carolina into such a rage, and nothing, he said, was further from his purpose. But if he had intimated that the legislature of North Carolina had meanly prevaricated, and had made a fraudulent use of the doctrine of instructions ——

[*Mr. Brown.* I did not say so, my remarks were general.]

If his remarks were general, I do not see that they can have any specific application, except to this case.

[Mr. Brown, again attempting to speak, was prevented by cries of order.]

Mr. Clay said it was far from his purpose to assume jurisdiction in this case, or any authority over the senator, or his colleague; and he could not more protest against it, than Mr. Clay was unwilling to exercise it. But what was the state of the case? The senators, on presenting the resolutions of their legislature, had both made speeches addressed to this body, and had spoken of the nature of their instructions, and of the degree of authority and of duty which belonged to them; all this they had done to a body of which Mr. Clay was a member. If they had confined their thoughts on the subject to themselves, or had contented themselves with simply presenting the resolutions, Mr. Clay would have seen no occasion for any remarks on his part. But when they expressed their views of the extent of the obligations due to their instructions, on subjects in which the whole country was interested, Mr. Clay would ask if it was not proper for him to speak in reply? Mr. Clay had spoken with reluctance, and would have been glad if another gentleman had taken it upon him; but as the question was about to be put, and as North Carolina was unrepresented, he had ventured to make a few remarks, and in doing so, had called forth a most violent philippic against him personally. Mr. Clay had not felt the slightest emotion while this was going on; but as the senator had protested against Mr. Clay's jurisdiction in the case, he should have recollected that he was assuming just such a jurisdiction over Mr. Clay: and that it was quite as exceptionable for the senator to arraign Mr. Clay's course, as for him to arraign that of the senator's. But Mr. Clay would say nothing in regard to himself, since his colleague, (Mr. Crittenden, on the land bill,) had

disclosed the impossibility of making any adequate defence for Mr. Clay on this floor; and he therefore thought it vain for him to attempt to defend himself. But on this point the people of the country must judge; and if they condemned the course of policy, in regard to the public lands, which Mr. Clay advocated, and which had placed this country fifty years in advance of what it would otherwise have been, Mr. Clay could only submit; and if, as the senior senator from North Carolina had stated, this question had shaken the pillars of this union, it would be right to give some credit to Mr. Clay, that he had endeavored to compose that controversy, by the bill which he had introduced several years ago.

On the declaration of Mr. Strange, that he generally regarded Mr. Clay's course as one to be avoided, Mr. Clay remarked, that it was not his course of conduct towards Mr. Strange, or any other gentleman; but when they presented any measure, he was ever ready to give it his consideration; and he would not decide against him, merely because he proposed the measure, but he would examine it, and if the ground was good, he would act with him, as Mr. Strange was about to do with Mr. Clay on graduation.

Mr. Clay again disclaimed any intention to interfere between the senators from North Carolina and their legislature, and expressed the pleasure which these resolutions gave him, especially on account of their reference to the public lands; and he further insti-

# PETITIONS FOR THE ABOLITION OF SLAVERY.

## IN THE SENATE OF THE UNITED STATES, FEBRUARY 7, 1839.

[THE subject of the following speech is one of momentous interest and importance to the American people; and, indeed, has for a long time attracted the attention of philanthropists throughout a large portion of the civilized world. The situation of the African portion of the population of the United States engaged the attention of Mr. Clay at an early period of his political career, as may be seen by reference to our biographical sketch. Believing, as he did, after due reflection on the subject, that the condition of the African race could be best improved by colonization in Africa, we have seen that he lent his aid and influence in establishing and promoting the American colonization society. His views on that subject are given in his speech before the society, January twentieth, 1827.

The abolition societies in the United States have in various ways manifested their opposition to colonization in Africa, and many of their members have assailed the motives and conduct of the friends of the colonization society. Insisting upon immediate abolition as the only proper course to be pursued on the subject of slavery, they have poured in their petitions to congress, session after session, asking for the abolition of slavery in the District of Columbia. Mr. Clay, it will be seen in this speech, thinks that their petitions ought to have been received by congress and reported upon by a committee, instead of being laid upon the table, without further notice, as has been the practice in one or both houses of congress. Residing, as Mr. Clay does, in a slave-holding state, and from his long experience and knowledge of the subject on which he has bestowed much reflection, this speech must ever be read with interest, and regarded as the views of a philanthropist and statesman, even by those who may not accord with him in his opinions on this very exciting topic.]

I HAVE received, Mr. President, a petition to the senate and house of representatives of the United States, which I wish to present to the senate. It is signed by several hundred inhabitants of the District of Columbia, and chiefly of the city of Washington. Among them I recognize the name of the highly esteemed mayor of the city, and other respectable names, some of which are personally and well known to me. They express their regret that the subject of the abolition of slavery within the District of Columbia continues to be pressed upon the consideration of congress by inconsiderate and misguided individuals in other parts of the United States. They state, that they do not desire the abolition of slavery within the district, even if congress possess the very questionable power of abolishing it, without the consent of the people whose interests would be immediately and directly affected by the measure; that it is a question solely between the people of

the district and their only constitutional legislature, purely municipal, and one in which no exterior influence or interest can justly interfere; that if, at any future period, the people of this district should desire the abolition of slavery within it, they will doubtless make their wishes known, when it will be time enough to take the matter into consideration; that they do not, on this occasion, present themselves to congress because they are slave-holders; many of them are not; some of them are conscientiously opposed to slavery; but they appear because they justly respect the rights of those who own that description of property, and because they entertain a deep conviction that the continued agitation of the question by those who have no right to interfere with it, has an injurious influence on the peace and tranquillity of the community, and upon the well-being and happiness of those who are held in subjection; they finally protest as well against the unauthorized intervention of which they complain, as against any legislation on the part of congress in compliance therewith. But as I wish these respectable petitioners to be themselves heard, I request that their petition may be read. [It was read accordingly, and Mr. Clay proceeded.] I am informed by the committee which requested me to offer this petition, and believe, that it expresses the almost unanimous sentiments of the people of the District of Columbia.

ing with the object which they have in view a collateral and totally different question, arising out of an alleged violation of the right of petition. I know full well, and take great pleasure in testifying, that nothing was remoter from the intention of the majority of the senate, from which I differed, than to violate the right of petition in any case in which, according to its judgment, that right could be constitutionally exercised, or where the object of the petition could be safely or properly granted. Still it must be owned that the abolitionists have seized hold of the fact of the treatment which their petitions have received in congress, and made injurious impressions upon the minds of a large portion of the community. This, I think, might have been avoided by the course which I should have been glad to see pursued.

And I desire now, Mr. President, to advert to some of those topics which I think might have been usefully embodied in a report by a committee of the senate, and which, I am persuaded, would have checked the progress, if it had not altogether arrested the efforts of abolition. I am sensible, sir, that this work would have been accomplished with much greater ability and with much happier effect, under the auspices of a committee, than it can be by me. But, anxious as I always am to contribute whatever is in my power to the harmony, concord, and happiness of this great people, I feel myself irresistibly impelled to do whatever is in my power, incompetent as I feel myself to be, to dissuade the public from continuing to agitate a subject fraught with the most direful consequences.

There are three classes of persons opposed, or apparently opposed, to the continued existence of slavery in the United States. The first are those, who, from sentiments of philanthropy and humanity, are conscientiously opposed to the existence of slavery, but who are no less opposed, at the same time, to any disturbance of the peace and tranquillity of the union, or the infringement of the powers of the states composing the confederacy. In this class may be comprehended that peaceful and exemplary society of 'Friends,' one of whose established maxims is, an abhorrence of war in all its forms, and the cultivation of peace and good-will amongst mankind. The next class consists of apparent abolitionists; that is, those who, having been persuaded that the right of petition has been violated by congress, coöperate with the abolitionists for the sole purpose of asserting and vindicating that right. And the third class are the real ultra abolitionists, who are resolved to persevere in the pursuit of their object at all hazards, and without regard to any consequences, however calamitous they may be. With them the rights of property are nothing; the deficiency of the powers of the general government is nothing; the acknowledged and incontestable powers of the states are nothing; civil war, a dissolution of the union, and the overthrow of a

government in which are concentrated the fondest hopes of the civilized world, are nothing. A single idea has taken possession of their minds, and onward they pursue it, overlooking all barriers, reckless and regardless of all consequences. With this class, the immediate abolition of slavery in the District of Columbia, and in the territory of Florida, the prohibition of the removal of slaves from state to state, and the refusal to admit any new state, comprising within its limits the institution of domestic slavery, are but so many means conducing to the accomplishment of the ultimate but perilous end at which they avowedly and boldly aim; are but so many short stages in the long and bloody road to the distant goal at which they would finally arrive. Their purpose is abolition, universal abolition; peaceably if it can, forcibly if it must be. Their object is no longer concealed by the thinnest veil; it is avowed and proclaimed. Utterly destitute of constitutional or other rightful power, living in totally distinct communities, as alien to the communities in which the subject on which they would operate resides, so far as concerns political power over that subject, as if they lived in Africa or Asia, they nevertheless promulgate to the world their purpose to be, to manumit forthwith, and without compensation, and without moral preparation, three millions of negro slaves, under jurisdictions altogether separated from those under which they live. I have said, that immediate abolition of slavery in the District of Columbia and the territory of Florida

admission, and is received with scornful repugnance into it! If he be no more desirous of our society than we are of his, he may rest assured that a state of eternal non-intercourse will exist between us. Yes, sir, I think the American minister would have best pursued the dictates of true dignity by regarding the language of the member of the British house of commons as the malignant ravings of the plunderer of his own country, and the libeller of a foreign and kindred people.

But the means to which I have already adverted are not the only ones which this third class of ultra-abolitionists are employing to effect their ultimate end. They began their operations by professing to employ only persuasive means in appealing to the humanity, and enlightening the understandings, of the slave-holding portion of the union. If there were some kindness in this avowed motive, it must be acknowledged that there was rather a presumptuous display also of an assumed superiority in intelligence and knowledge. For some time they continued to make these appeals to our duty and our interest; but impatient with the slow influence of their logic upon our stupid minds, they recently resolved to change their system of action. To the agency of their powers of persuasion, they now propose to substitute the powers of the ballot-box; and he must be blind to what is passing before us, who does not perceive that the inevitable tendency of their proceedings is, if these should be found insufficient, to invoke, finally, the more potent powers of the bayonet.

Mr. President, it is at this alarming stage of the proceedings of the ultra-abolitionists, that I would seriously invite every considerate man in the country solemnly to pause, and deliberately to reflect, not merely on our existing posture, but upon that dreadful precipice down which they would hurry us. It is because these ultra-abolitionists have ceased to employ the instruments of reason and persuasion, have made their cause political, and have appealed to the ballot-box, that I am induced, upon this occasion, to address you.

There have been three epochs in the history of our country, at which the spirit of abolition displayed itself. The first was immediately after the formation of the present federal government. When the constitution was about going into operation, its powers were not well understood by the community at large, and remained to be accurately interpreted and defined. At that period numerous abolition societies were formed, comprising not merely the society of Friends, but many other good men. Petitions were presented to congress, praying for the abolition of slavery. They were received without serious opposition, referred, and reported upon by a committee. The report stated, that the general government had no power to abolish slavery, as it existed in the several states, and that these states themselves had exclusive jurisdiction over the subject.

The report was generally acquiesced in, and satisfaction and tranquillity ensued; the abolition societies thereafter limiting their exertions, in respect to the black population, to offices of humanity within the scope of existing laws.

The next period when the subject of slavery, and abolition incidentally, was brought into notice and discussion, was that on the memorable occasion of the admission of the state of Missouri into the union. The struggle was long, strenuous, and fearful. It is too recent to make it necessary to do more than merely advert to it, and to say, that it was finally composed by one of those compromises characteristic of our institutions, and of which the constitution itself is the most signal instance.

The third is that in which we now find ourselves. Various causes, Mr. President, have contributed to produce the existing excitement on the subject of abolition. The principal one, perhaps, is the example of British emancipation of the slaves in the islands adjacent to our country. Such is the similarity in laws, in language, in institutions, and in common origin, between Great Britain and the United States, that no great measure of national policy can be adopted in the one country without producing a considerable degree of influence in the other. Confounding the totally different cases together, of the powers of the British parliament and those of the congress of the United States, and the totally different situations of the British West India islands, and the slaves in the sovereign and independent states of this confederacy, superficial men have inferred, from the undecided British experiment, the practicability of the abolition of slavery in these states. The powers of the British parliament are unlimited, and are often described to be omnipotent. The powers of the American congress, on the contrary, are few, cautiously limited, scrupulously excluding all that are not granted, and, above all, carefully and absolutely excluding all power over the existence or continuance of slavery in the several states. The slaves, too, upon which British legislation operated, were not in the bosom of the kingdom, but in remote and feeble colonies having no voice in parliament. The West India slave-holder was neither represented nor representative in that parliament. And whilst I most fervently wish complete success to the British experiment of West India emancipation, I confess, that I have fearful forebodings of a disastrous termination of it. Whatever it may be, I think it must be admitted, that, if the British parliament treated the West India slaves as freemen, it also treated the West India freemen as slaves. If, instead of these slaves being separated by a wide ocean from the parent country, three or four millions of African negro slaves had been dispersed over England, Scotland, Wales, and Ireland, and their owners had been members of the British parliament — a case which would have presented some analogy to that of our own country — does any one believe that it

would have been expedient or practicable to have emancipated them, leaving them to remain, with all their embittered feelings, in the united kingdom, boundless as the powers of the British parliament are?

Other causes have conspired with the British example to produce the existing excitement from abolition. I say it with profound regret, but with no intention to occasion irritation here or elsewhere, that there are persons in both parts of the union who have sought to mingle abolition with politics, and to array one portion of the union against the other. It is the misfortune in free countries, that, in high party times, a disposition too often prevails to seize hold of every thing which can strengthen the one side or weaken the other. Charges of fostering abolition designs have been heedlessly and unjustly made by one party against the other. Prior to the late election of the present president of the United States, he was charged with being an abolitionist, and abolition designs were imputed to many of his supporters. Much as I was opposed to his election, and am to his administration, I neither shared in making nor believing the truth of the charge. He was scarcely installed in office before the same charge was directed against those who opposed his election.

Mr. President, it is not true, and I rejoice that it is not true, that either of the two great parties in this country has any designs or aim at abolition. I should deeply lament if it were true. I should consider, if it were true, that the danger to the stability of our system would be infinitely greater than any which does, I hope, actually exist. Whilst neither party can be, I think, justly accused of any abolition tendency or purpose, both have profited, and both have been injured, in particular localities, by the accession or abstraction of abolition support. If the account were fairly stated, I believe the party to which I am opposed has profited much more, and been injured much less, than that to which I belong. But I am far, for that reason, from being disposed to accuse our adversaries of being abolitionists.

And now, Mr. President, allow me to consider the several cases, in which the authority of congress is invoked by these abolition petitioners upon the subject of domestic slavery. The first relates to it as it exists in the District of Columbia. The following is the provision of the constitution of the United States in reference to that matter.

'To exercise exclusive legislation in all cases whatsoever over such district, (not exceeding ten miles square,) as may by cession of particular states, and the acceptance of congress, become the seat of government of the United States.'

This provision preceded, in point of time, the actual cessions which were made by the states of Maryland and Virginia. The object of the cession was, to establish *a seat of government of the United*

*States;* and the grant in the constitution, of exclusive legislation, must be understood, and should be always interpreted, as having relation to the object of the cession. It was with a full knowledge of this clause in the constitution, that those two states ceded to the general government the ten miles square, constituting the District of Columbia. In making the cession, they supposed that it was to be applied, and applied solely, to the purposes of a seat of government, for which it was asked. When it was made, slavery existed in both those commonwealths, and in the ceded territory, as it now continues to exist in all of them. Neither Maryland nor Virginia could have anticipated, that, whilst the institution remained within their respective limits, its abolition would be attempted by congress without their consent. Neither of them would probably have made an unconditional cession, if they could have anticipated such a result.

From the nature of the provision in the constitution, and the avowed object of the acquisition of the territory, two duties arise on the part of congress. The first is, to render the district available, comfortable, and convenient, as a seat of government of the whole union; the other is, to govern the people within the district, so as best to promote their happiness and prosperity. These objects are totally distinct in their nature, and, in interpreting and exercising the grant of the power of exclusive legislation, that distinction should be constantly borne in mind. Is it necessary, in order to

remains in Virginia and Maryland, situated, as that district is, within the very heart of those states, would expose them to great practical inconvenience and annoyance. The district would become a place of refuge and escape for fugitive slaves from the two states, and a place from which a spirit of discontent, insubordination, and insurrection, might be fostered and encouraged in the two states. Suppose, as was at one time under consideration, Pennsylvania had granted ten miles square within its limits for the purpose of a seat of the general government; could congress, without a violation of good faith, have introduced and established slavery within the bosom of that commonwealth, in the ceded territory, after she had abolished it so long ago as the year 1780? Yet the inconvenience to Pennsylvania in the case supposed would have been much less than that to Virginia and Maryland in the case we are arguing.

It was upon this view of the subject, that the senate, at its last session, solemnly declared that it would be a violation of implied faith, resulting from the transaction of the cession, to abolish slavery within the District of Columbia. And would it not be? By implied faith is meant, that when a grant is made for one avowed and declared purpose, known to the parties, the grant should not be perverted to another purpose, unavowed, and undeclared, and injurious to the grantor. The grant, in the case we are considering, of the territory of Columbia, was for a *seat of government.* Whatever power is necessary to accomplish that object is carried along by the grant. But the abolition of slavery is not necessary to the enjoyment of this site as a seat of the general government. The grant in the constitution, of exclusive power of legislation over the district, was made to insure the exercise of an exclusive authority of the general government, to render this place a safe and secure seat of government, and to promote the well-being of the inhabitants of the district. The power granted ought to be interpreted and exercised solely to the end for which it was granted. The language of the grant was necessarily broad, comprehensive, and exclusive, because all the exigencies which might arise to render this a secure seat of the general government could not have been foreseen and provided for. The language may possibly be sufficiently comprehensive to include a power of abolition, but it would not at all thence follow, that the power could be rightfully exercised. The case may be resembled to that of a plenipotentiary invested with a plenary power, but who, at the same time, has positive instructions from his government as to the kind of treaty which he is to negotiate and conclude. If he violates those instructions, and concludes a different treaty, this government is not bound by it. And if the foreign government is aware of the violation, it acts in bad faith. Or it may be illustrated by an example drawn from private life. I am an endorser for my friend on a note discounted in bank. He applies to me to endorse another to renew it, which I do in blank.

Now, this gives him power to make any other use of my note which he pleases. But if, instead of applying it to the intended purpose, he goes to a broker and sells it, thereby doubling my responsibility for him, he commits a breach of trust, and a violation of the good faith implied in the whole transaction.

But, Mr. President, if this reasoning were as erroneous as I believe it to be correct and conclusive, is the affair of the liberation of six thousand negro slaves in this district, disconnected with the three millions of slaves in the United States, of sufficient magnitude to agitate, distract, and embitter this great confederacy?

The next case in which the petitioners ask the exercise of the power of congress, relates to slavery in the territory of Florida.

Florida is the extreme southern portion of the United States. It is bounded on all its land sides by slave states, and is several hundred miles from the nearest free state. It almost extends within the tropics, and the nearest important island to it, on the water side, is Cuba, a slave island. This simple statement of its geographical position should of itself decide the question. When, by the treaty of 1819 with Spain, it was ceded to the United States, slavery existed within it. By the terms of that treaty, the effects and property of the inhabitants are secured to them, and they are allowed to remove and take them away, if they think proper to do so, without limitation as to time. If it were expedient, therefore, to

abolition petitions, the traffic in human beings between the states. This exercise of the power of congress is claimed under that clause of the constitution which invests it with authority to regulate commerce with foreign nations, and among the several states, and with the Indian tribes. The power to regulate commerce among the several states, like other powers in the constitution, has hitherto remained dormant in respect to the interior trade by land between the states. It was a power granted, like all the other powers of the general government, to secure peace and harmony among the states. Hitherto it has not been necessary to exercise it. All the cases in which, during the progress of time, it may become expedient to exert the general authority to regulate commerce between the states, cannot be conceived. We may easily imagine, however, contingencies which, if they were to happen, might require the interposition of the common authority. If, for example, the state of Ohio were, by law, to prohibit any vessel entering the port of Cincinnati, from the port of Louisville, in Kentucky, if that case be not already provided for by the laws which regulate our coasting trade, it would be competent to the general government to annul the prohibition emanating from state authority. Or if the state of Kentucky were to prohibit the introduction, within its limits, of any articles of trade, the production of the industry of the inhabitants of the state of Ohio, the general government might, by its authority, supersede the state enactment. But I deny that the general government has any authority, whatever, from the constitution, to abolish what is called the slave trade, or, in other words, to prohibit the removal of slaves from one slave state to another slave state.

The grant in the constitution is of a power of *regulation*, and not prohibition. It is conservative, not destructive. Regulation *ex vi termini* implies the continued existence or prosecution of the thing regulated. Prohibition implies total discontinuance or annihilation. The regulation intended was designed to facilitate and accommodate, not to obstruct and incommode the commerce to be regulated. Can it be pretended that, under this power to regulate commerce among the states, congress has the power to prohibit the transportation of live stock, which, in countless numbers, are daily passing from the western and interior states, to the southern, southwestern, and Atlantic states? The moment the incontestable fact is admitted, that negro slaves are property, the law of movable property irresistibly attaches itself to them, and secures the right of carrying them from one to another state, where they are recognised as property, without any hindrance whatever from congress.

But, Mr. President, I will not detain the senate longer on the subject of slavery within the district and in Florida, and of the right of congress to prohibit the removal of slaves from one state to another. These, as I have already intimated, with ultra-abolitionists, are but so many masked batteries, concealing the real and

ultimate point of attack. That point of attack is the institution of domestic slavery, as it exists in these states. It is to liberate three millions of slaves held in bondage within them. And now allow me, sir, to glance at the insurmountable obstacles which lie in the way of the accomplishment of this end, and at some of the consequences which would ensue if it were possible to attain it.

The first impediment is the utter and absolute want of all power on the part of the general government to effect the purpose. The constitution of the United States creates a limited government, comprising comparatively few powers, and leaving the residuary mass of political power in the possession of the several states. It is well known, that the subject of slavery interposed one of the greatest difficulties in the formation of the constitution. It was happily compromised and adjusted in a spirit of harmony and patriotism. According to that compromise, no power whatever was granted to the general government in respect to domestic slavery, but that which relates to taxation and representation, and the power to restore fugitive slaves to their lawful owners. All other power in regard to the institution of slavery was retained exclusively by the states, to be exercised by them severally, according to their respective views of their own peculiar interest. The constitution of the United States never could have been formed upon the principle of investing the general government with

against institutions under the exclusive control of the free states? Is their purpose to appeal to our understandings, and to actuate our humanity? And do they expect to accomplish that purpose by holding us up to the scorn, and contempt, and detestation of the people of the free states and the whole civilized world? The slavery which exists amongst us is our affair, not theirs; and they have no more just concern with it than they have with slavery as it exists throughout the world. Why not leave it to us, as the common constitution of our country has left it, to be dealt with, under the guidance of Providence, as best we may or can?

The next obstacle in the way of abolition, arises out of the fact of the presence in the slave states of three millions of slaves. They are there, dispersed throughout the land, part and parcel of our population. They were brought into the country originally under the authority of the parent government, whilst we were colonies, and their importation was continued, in spite of all the remonstrances of our ancestors. If the question were an original question, whether, there being no slaves within the country, we should introduce them, and incorporate them into our society, that would be a totally different question. Few, if any, of the citizens of the United States, would be found to favor their introduction. No man in it would oppose, upon that supposition, their admission with more determined resolution and conscientious repugnance than I should. But that is not the question. The slaves are here; no practical scheme for their removal or separation from us has been yet devised or proposed; and the true inquiry is, what is best to be done with them. In human affairs we are often constrained, by the force of circumstances and the actual state of things, to do what we would not do, if that state of things did not exist. The slaves are here, and here must remain, in some condition; and, I repeat, how are they to be best governed? What is best to be done for their happiness and our own? In the slave states the alternative is, that the white man must govern the black, or the black govern the white. In several of those states, the number of the slaves is greater than that of the white population. An immediate abolition of slavery in them, as these ultra abolitionists propose, would be followed by a desperate struggle for immediate ascendency of the black race over the white race, or rather it would be followed by instantaneous collisions between the two races, which would break out into a civil war, that would end in the extermination or subjugation of the one race or the other. In such an alternative, who can hesitate? Is it not better for both parties that the existing state of things should be preserved, instead of exposing them to the horrible strifes and contests which would inevitably attend an immediate abolition? This is our true ground of defence, for the continued existence of slavery in our country. It is that which our revolutionary ancestors assumed. It is that,

which, in my opinion, forms our justification in the eyes of all christendom.

A third impediment to immediate abolition is to be found in the immense amount of capital which is invested in slave property. The total number of slaves in the United States, according to the last enumeration of the population, was a little upwards of two millions. Assuming their increase at a ratio, which it probably is, of five per centum per annum, their present number would be three millions. The average value of slaves at this time, is stated by persons well informed, to be as high as five hundred dollars each. To be certainly within the mark, let us suppose that it is only four hundred dollars. The total value, then, by that estimate, of the slave property in the United States, is twelve hundred millions of dollars. This property is diffused throughout all classes and conditions of society. It is owned by widows and orphans, by the aged and infirm, as well as the sound and vigorous. It is the subject of mortgages, deeds of trust, and family settlements. It has been made the basis of numerous debts contracted upon its faith, and is the sole reliance, in many instances, of creditors, within and without the slave states, for the payment of the debts due to them. And now it is rashly proposed, by a single fiat of legislation, to annihilate this immense amount of property! To annihilate it without indemnity and without compensation to

If, therefore, these ultra abolitionists are seriously determined to pursue their immediate scheme of abolition, they should at once set about raising a fund of twelve hundred millions of dollars, to indemnify the owners of slave property. And the taxes to raise that enormous amount can only be justly assessed upon themselves or upon the free states, if they can persuade them to assent to such an assessment; for it would be a mockery of all justice, and an outrage against all equity, to levy any portion of the tax upon the slave states to pay for their own unquestioned property.

If the considerations to which I have already adverted, are not sufficient to dissuade the abolitionists from further perseverance in their designs, the interest of the very cause which they profess to espouse, ought to check their career. Instead of advancing, by their efforts, that cause, they have thrown back for half a century, the prospect of any species of emancipation of the African race, gradual or immediate in any of the states. They have done more; they have increased the rigors of legislation against slaves in most, if not all, of the slave states. Forty years ago, the question was agitated in the state of Kentucky, of a gradual emancipation of the slaves within its limits. By gradual emancipation, I mean that slow but safe and cautious liberation of slaves, which was first adopted in Pennsylvania, at the instance of Dr. Franklin,* in the year 1780, and, according to which, the generation in being were to remain in slavery, but all their offspring born after a specified day, were to be free at the age of twenty-eight, and, in the mean time, were to receive preparatory instruction to qualify them for the enjoyment of freedom. That was the species of emancipation which, at the epoch to which I allude, was discussed in Kentucky. No one was rash enough to propose or think of immediate abolition. No one was rash enough to think of throwing loose upon the community, ignorant and unprepared, the untutored slaves of the state. Many thought, and I amongst them, that as each of the slave states had a right exclusively to judge for itself, in respect to the institution of domestic slavery, the proportion of slaves, compared with the white population in that state, at that time, was so inconsiderable that a system of gradual emancipation might have been safely adopted, without any hazard to the security and interests

* MESSRS. GALES & SEATON:

In the speech which I addressed to the senate, on the subject of abolition petitions, I ascribed to Dr. Franklin the authorship of the law passed by the state of Pennsylvania, in 1780, for the gradual emancipation of slaves. Such was the impression on my mind; but, from a communication which I have since received, I believe that the measure originated with another distinguished citizen of Pennsylvania, the late honorable George Bryan.

I will thank you to make this correction, unimportant in respect to the use I made of the fact, but otherwise just and proper.

Yours, respectfully,

H. CLAY.

Washington, March 2, 1839.

of the commonwealth. And I still think that the question of such emancipation in the farming states is one whose solution depends upon the relative numbers of the two races in any given state. If I had been a citizen of the state of Pennsylvania, when Franklin's plan was adopted, I should have voted for it, because by no possibility could the black race ever acquire the ascendency in that state. But if I had been then, or were now, a citizen of any of the planting states — the southern or southwestern states — I should have opposed, and would continue to oppose, any scheme whatever of emancipation, gradual or immediate, because of the danger of an ultimate ascendency of the black race, or of a civil contest which might terminate in the extinction of one race or the other.

The proposition in Kentucky for a gradual emancipation, did not prevail, but it was sustained by a large and respectable minority. That minority had increased, and was increasing, until the abolitionists commenced their operations. The effect has been to dissipate all prospects whatever, for the present, of any scheme of gradual or other emancipation. The people of that state have become shocked and alarmed by these abolition movements, and the number who would now favor a system even of gradual emancipation is probably less than it was in the years 1798–9. At the session of the legislature held in 1837–8, the question of calling a convention was submitted to the consideration of the

tion, let us briefly contemplate some of the consequences which would inevitably ensue. One of these has been occasionally alluded to in the progress of these remarks. It is the struggle which would instantaneously arise between the two races in most of the southern and southwestern states. And what a dreadful struggle would it not be! Embittered by all the recollections of the past, by the unconquerable prejudices which would prevail between the two races, and stimulated by all the hopes and fears of the future, it would be a contest in which the extermination of the blacks, or their ascendency over the whites, would be the sole alternative. Prior to the conclusion, or during the progress of such a contest, vast numbers, probably, of the black race would migrate into the free states; and what effect would such a migration have upon the laboring classes in those states!

Now the distribution of labor in the United States is geographical; the free laborers occupying one side of the line, and the slave laborers the other; each class pursuing its own avocations almost altogether unmixed with the other. But on the supposition of immediate abolition, the black class, migrating into the free states, would enter into competition with the white class, diminishing the wages of their labor, and augmenting the hardships of their condition.

This is not all. The abolitionists strenuously oppose all separation of the two races. I confess to you, sir, that I have seen with regret, grief, and astonishment, their resolute opposition to the project of colonization. No scheme was ever presented to the acceptance of man, which, whether it be entirely practicable or not, is characterized by more unmixed humanity and benevolence, than that of transporting, with their own consent, the free people of color in the United States to the land of their ancestors. It has the powerful recommendation, that whatever it does, is good; and, if it effects nothing, it inflicts no one evil or mischief upon any portion of our society. There is no necessary hostility between the objects of colonization and abolition. Colonization deals only with the free man of color, and that with his own free voluntary consent. It has nothing to do with slavery. It disturbs no man's property, seeks to impair no power in the slave states, nor to attribute any to the general government. All its action and all its ways and means are voluntary, depending upon the blessing of Providence, which hitherto has graciously smiled upon it. And yet, beneficent and harmless as colonization is, no portion of the people of the United States denounces it with so much persevering zeal, and such unmixed bitterness, as do the abolitionists.

They put themselves in direct opposition to any separation whatever between the two races. They would keep them for ever pent up together within the same limits, perpetuating their animosities and constantly endangering the peace of the community.

They proclaim, indeed, that color is nothing; that the organic and characteristic differences between the two races ought to be entirely overlooked and disregarded. And, elevating themselves to a sublime but impracticable philosophy, they would teach us to eradicate all the repugnances of our nature, and to take to our bosoms and our boards, the black man as we do the white, on the same footing of equal social condition. Do they not perceive that in thus confounding all the distinctions which God himself has made, they arraign the wisdom and goodness of Providence itself? It has been his divine pleasure to make the black man black, and the white man white, and to distinguish them by other repulsive constitutional differences. It is not necessary for me to maintain, nor shall I endeavor to prove, that it was any part of his divine intention that the one race should be held in perpetual bondage by the other; but this I will say, that those whom he has created different, and has declared, by their physical structure and color, ought to be kept asunder, should not be brought together by any process whatever of unnatural amalgamation.

But if the dangers of the civil contest which I have supposed could be avoided, separation or amalgamation is the only peaceful alternative, if it were possible to effectuate the project of abolition. The abolitionists oppose all colonization, and it irresistibly follows, whatever they may protest or declare, that they are in favor of amalgamation. And who are to bring about this amalgamation?

upon the African portion. This fact is demonstrated by the periodical returns of our population. Let us cease, then, to indulge in gloomy forebodings about the impenetrable future. But, if we may attempt to lift the veil, and contemplate what lies beyond it, I too, have ventured on a speculative theory, with which I will now trouble you, but which has been published to the world. According to that, in the progress of time, some one hundred and fifty or two hundred years hence, but few vestiges of the black race will remain among our posterity.

Mr. President, at the period of the formation of our constitution, and afterwards, our patriotic ancestors, apprehended danger to the union from two causes. One was, the Alleghany mountains, dividing the waters which flow into the Atlantic ocean from those which found their outlet in the Gulf of Mexico. They seemed to present a natural separation. That danger has vanished before the noble achievements of the spirit of internal improvement, and the immortal genius of Fulton. And now, nowhere is found a more loyal attachment to the union, than among those very western people, who, it was apprehended, would be the first to burst its ties.

The other cause, domestic slavery, happily the sole remaining cause which is likely to disturb our harmony, continues to exist. It was this, which created the greatest obstacle, and the most anxious solicitude in the deliberations of the convention that adopted the general constitution. And it is this subject that has ever been regarded with the deepest anxiety by all who are sincerely desirous of the permanency of our union. The father of his country, in his last affecting and solemn appeal to his fellow-citizens, deprecated, as a most calamitous event, the geographical divisions which it might produce. The convention wisely left to the several states the power over the institution of slavery, as a power not necessary to the plan of union which it devised, and as one with which the general government could not be invested without planting the seeds of certain destruction. There let it remain undisturbed by any unhallowed hand.

Sir, I am not in the habit of speaking lightly of the possibility of dissolving this happy union. The senate knows that I have deprecated allusions, on ordinary occasions, to that direful event. The country will testify, that, if there be any thing in the history of my public career worthy of recollection, it is the truth and sincerity of my ardent devotion to its lasting preservation. But we should be false in our allegiance to it, if we did not discriminate between the imaginary and real dangers by which it may be assailed. Abolition should no longer be regarded as an imaginary danger. The abolitionists, let me suppose, succeed in their present aim of uniting the inhabitants of the free states, as one man, against the inhabitants of the slave states. Union on the one side will beget union on the other. And this process of reciprocal consolidation will

be attended with all the violent prejudices, embittered passions, and implacable animosities, which ever degraded or deformed human nature. A virtual dissolution of the union will have taken place, whilst the forms of its existence remain. The most valuable element of union, mutual kindness, the feelings of sympathy, the fraternal bonds, which now happily unite us, will have been extinguished for ever. One section will stand in menacing and hostile array against the other. The collision of opinion will be quickly followed by the clash of arms. I will not attempt to describe scenes which now happily lie concealed from our view. Abolitionists themselves would shrink back in dismay and horror at the contemplation of desolated fields, conflagrated cities, murdered inhabitants, and the overthrow of the fairest fabric of human government that ever rose to animate the hopes of civilized man. Nor should these abolitionists flatter themselves that, if they can succeed in their object of uniting the people of the free states, they will enter the contest with a numerical superiority that must insure victory. All history and experience proves the hazard and uncertainty of war. And we are admonished by holy writ, that the race is not to the swift, nor the battle to the strong. But if they were to conquer, whom would they conquer? A foreign foe; one who had insulted our flag, invaded our shores, and laid our country waste? No, sir; no, sir. It would be a conquest without laurels, without glory; a self, a suicidal conquest; a conquest of brothers over brothers

I am, Mr. President, no friend of slavery. The searcher of all hearts knows that every pulsation of mine beats high and strong in the cause of civil liberty. Wherever it is safe and practicable, I desire to see every portion of the human family in the enjoyment of it. But I prefer the liberty of my own country to that of any other people; and the liberty of my own race to that of any other race. The liberty of the descendants of Africa in the United States is incompatible with the safety and liberty of the European descendants. There slavery forms an exception — an exception resulting from a stern and inexorable necessity — to the general liberty in the United States. We did not originate, nor are we responsible for this necessity. Their liberty, if it were possible, could only be established by violating the incontestable powers of the states, and subverting the union. And beneath the ruins of the union would be buried, sooner or later, the liberty of both races.

But if one dark spot exists on our political horizon, is it not obscured by the bright and effulgent and cheering light that beams all around us? Was ever a people before so blessed as we are, if true to ourselves? Did ever any other nation contain within its bosom so many elements of prosperity, of greatness, and of glory? Our only real danger lies ahead, conspicuous, elevated, and visible. It was clearly discerned at the commencement, and distinctly seen throughout our whole career. Shall we wantonly run upon it, and destroy all the glorious anticipations of the high destiny that awaits us? I beseech the abolitionists themselves, solemnly to pause in their mad and fatal course. Amidst the infinite variety of objects of humanity and benevolence which invite the employment of their energies, let them select some one more harmless, that does not threaten to deluge our country in blood. I call upon that small portion of the clergy, which has lent itself to these wild and ruinous schemes, not to forget the holy nature of the divine mission of the founder of our religion, and to profit by his peaceful examples. I entreat that portion of my country women who have given their countenance to abolition, to remember, that they are ever most loved and honored when moving in their own appropriate and delightful sphere; and to reflect that the ink which they shed in subscribing with their fair hands abolition petitions, may prove but the prelude to the shedding of the blood of their brethren. I adjure all the inhabitants of the free states to rebuke and discountenance, by their opinion and their example, measures which must inevitably lead to the most calamitous consequences. And let us all, as countrymen, as friends, and as brothers, cherish, in unfading memory, the motto which bore our ancestors triumphantly through all the trials of the revolution, as, if adhered to, it will conduct their posterity through all that may, in the dispensations of Providence, be reserved for them.

# SPEECH AT BUFFALO, NEW YORK.

JULY 17, 1839.

[In the summer of 1839, Mr. Clay made a visit to the country on the Lakes, Canada, and the state of New York. At the city of Buffalo, he yielded to the request of his friends, to address the people on the state of public affairs, and in the following remarks, he alludes to the course of the administration of Mr. Van Buren, and shows the importance of the adoption of wise measures to promote the prosperity of the country, without regard to local prejudices, or party considerations.]

Mr. Recorder and fellow citizens, the journey which has brought me in the midst of you, was undertaken to afford me an opportunity which I had long desired, but never before enjoyed, of viewing some of the lakes, the country bordering upon them, the wonderful cataract in your neighborhood, and the Canadas. I had

would be complete, if we were not forced to recollect that the violation of our territorial jurisdiction, in the case of the Caroline, remains to be satisfactorily atoned for.

During the progress of that war, as in the war of the revolution, cut off from the usual supplies of European fabrics, our armies, and our population generally, were subjected to extreme privations and sufferings. It appeared to me, upon its termination, that the wisdom of government was called upon to guard against the recurrence of the evil, and to place the security and prosperity of the country upon a sure basis. Hence, I concurred most heartily in the policy of protecting American manufactures, for a limited time, against foreign competition. Whatever diversity of opinion may have existed as to the propriety of that policy originally, I think that all candid men must now admit, that it has placed this country at least half a century in advance of the position in which it would have been, without its adoption. The value of a home, as well as of a foreign market, is incalculable. It may be illustrated by a single example. Suppose the three hundred thousand bales of cotton now manufactured in the United States, were thrown into the glutted markets of Europe, who can estimate the reduction in the price of that great staple, which would be the inevitable consequence? The compromise of the tariff was proposed to preserve our manufactures from impending ruin, menaced by the administration of general Jackson, and which would have been inflicted at the succeeding session, and to avert from the union the threatened danger of civil war. If the compromise be inviolably maintained, as I think it ought to be, I trust that the rate of duty for which it provides, in conjunction with the stipulations for cash duties, home valuation, and the long list of free articles, inserted for the benefit of the manufacturing interest, will insure it reasonable and adequate protection.

Intimately connected with the strength, the prosperity, and the union of our country, was that policy of internal improvements, of which you have expressed approbation. The national road, and the great canal, projected or executed by your Clinton, both having the same object of connecting the eastern and western portion of the union, have diffused a spirit throughout the land which has impelled the several states to undertake the accomplishment of most of the works which ought to be performed by the present generation. And after the distribution of the large surplus recently made from the common treasury, but little now remains for the general government directly to do, on this great subject, except those works which are intended to provide, on navigable waters, for the security of commerce and navigation, and the completion of the Cumberland road. I have been very glad, during my voyage upon this lake, to find that an erroneous impression had existed in my mind, as to the improvement of harbors. I had

feared that the expenditure of public money had been often wasteful and unnecessary, upon works on the lake shores. There are, probably, a few instances in which it might have been properly avoided; but I am now fully persuaded that, in the general, the expenditure has been necessary, wise, and salutary.

In sustaining the great systems of policy to which I have just adverted, I was actuated by the paramount desire which has influenced me throughout my whole public career, of reserving, in all its integrity and vigor, our happy union. In it is comprehended peace, safety, free institutions, and all that constitutes the pride and hope of our country. If we lift the veil beyond it, we must start back with horror at the scenes of disorder, anarchy, war, and despotism, which rise up before us.

But if it be most proper and expedient to leave the case to the several states, those internal improvements within their respective limits, which the wants of society require, there is one great and lasting resource to which I think them fairly entitled. The public domain has accomplished the object to which it was dedicated by our revolutionary fathers, in satisfying the land bounties which were granted to the officers and soldiers of the war of independence, and contributing to the extinction of the national debt. It is in danger of being totally lost, by loose and improvident legislation; and, under the plausible pretext of benefiting the poor, of

tem is rapidly tending towards an elective monarchy. These are our convictions, honestly and sincerely entertained. They prescribe to us the duties which we have to perform towards our country. To correct past evils, and to avert impending dangers, we see no effectual remedy, but in a change of our rulers. The opposition constitutes the majority — unquestionably the majority — of the nation. A great responsibility, therefore, attaches to it. If defeated, it will be defeated by its own divisions, and not by the merits of the principles of its opponents. These divisions are at the same time our weakness and his strength.

Are we not then called upon, Mr. Recorder and fellow citizens, by the highest duties to our country, to its free institutions, to posterity, and to the world, to rise above all local prejudices, and personal partialities, to discard all collateral questions, to disregard every subordinate point, and, in a genuine spirit of compromise and concession, uniting heart and hand to preserve for ourselves the blessings of a free government, wisely, honestly, and faithfully administered, and as we received them from our fathers, to transmit them to our children? Should we not justly subject ourselves to eternal reproach, if we permitted our differences about mere men, to bring defeat and disaster upon our cause? Our principles are imperishable, but men have but a fleeting existence, and are themselves liable to change and corruption during its brief continuance.

If my name creates any obstacle to cordial union and harmony, away with it, and concentrate upon some individual more acceptable to all branches of the opposition. What is a public man worth, who is not ever ready to sacrifice himself for the good of his country? I have unaffectedly desired retirement; I yet desire it, when, consistently with the duties and obligations which I owe, I can honorably retire. No veteran soldier, covered with scars and wounds, inflicted in many severe battles, and hard campaigns, ever received his discharge with more pleasure, than I should mine. But I think that like him, without presumption, I am entitled to an honorable discharge.

In conclusion, Mr. Recorder, allow me to express to the city government, through you, my respectful and especial acknowledgments, for its liberal tender of the hospitalities of the city; and to you, my thanks, for the friendly and flattering manner in which you have communicated it.

# LAND BILL PROPOSED BY MR. CALHOUN.

## IN THE SENATE OF THE UNITED STATES, JANUARY 3, 1840.

[MR. CALHOUN, of South Carolina, having been opposed to the measure introduced by Mr. Clay, to distribute the proceeds of the sales of public lands among the several states, brought into the senate a bill of his own, by which he proposed to cede all of the public lands belonging to the United States, to the states in which they were situated, on certain conditions. A similar project had been recommended by general Jackson. On this occasion a debate of some warmth took place between Mr. Clay and Mr. Calhoun, the substance of which is given below.]

AGREEABLY to notice given on Tuesday last, Mr. Calhoun asked leave, and introduced a bill to cede the public lands to the states in which they are respectively situated. The bill was read by its title, and, on motion of Mr. Calhoun, referred to the committee on the public lands soon after.

Mr. Clay, of Kentucky, having given notice of his intention to

Clay would be glad if any senator would inform him, whether the administration is in favor of or against this measure, or stands neutral and uncommitted. This inquiry he should not make, if the recent relations between the senator who introduced this bill, and the head of that administration continued to exist; but rumors, of which the city, the circles, and the press are full, assert that these relations are entirely changed, and have, within a few days, been substituted by others of an intimate, friendly, and confidential nature. And shortly after the time when this new state of things is alleged to have taken place, the senator gave notice of his intention to move to introduce this bill. Whether this motion has or has not any connection with that adjustment of former differences, the public would, he had no doubt, be glad to know. At all events, it is important to know in what relation of support, opposition, or neutrality the administration actually stands to this momentous measure; and he, (Mr. Clay,) supposed that the senator from South Carolina, or some other senator, could communicate the desired information.

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Mr. Clay said, he had understood the senator as felicitating himself on the opportunity which had been now afforded him, by Mr. Clay, of defining, once more, his political position; and Mr. Clay must say, that he had now defined it very clearly, and had apparently given it a new definition. The senator now declared that all the leading measures of the present administration had met his approbation, and should receive his support. It turned out, then, that the rumor to which Mr. Clay had alluded, was true, and that the senator from South Carolina might be hereafter regarded as a supporter of this administration, since he had declared that all its leading measures were approved by him, and should have his support.

Also, to the allusion which the senator from South Carolina had made, in regard to Mr. Clay's support of the head of another administration, (Mr. Adams,) it occasioned Mr. Clay no pain whatever. It was an old story, which had long been sunk in oblivion, except when the senator and a few others thought proper to bring it up. But what were the facts of that case. Mr. Clay was then a member of the house of representatives, to whom three persons had been returned, from whom, it was the duty of the house to make a selection for the presidency. As to one of those three candidates, he was known to be in an unfortunate condition, in which no one sympathized with him more than did Mr. Clay. Certainly the senator from South Carolina did not. That gentleman was, therefore, out of the question as a candidate for the chief magistracy; and Mr. Clay had, consequently, the only alternative of the illustrious individual at the hermitage, or of the man who was now distinguished in the house of representatives, and who had held so many public places with honor to himself and

benefit to the country; and, if there was any truth in history, the choice which Mr. Clay then made, was precisely the choice which the senator from South Carolina had urged upon his friends. The senator himself had declared his preference of Adams to Jackson. Mr. Clay made the same choice, and experience had approved it from that day to this, and would to eternity. History would ratify and approve it. Let the senator from South Carolina make any thing out of that part of Mr. Clay's public career if he could. Mr. Clay defied him.

The senator had alluded to Mr. Clay as the advocate of compromise. Certainly he was. This government itself, to a great extent, was founded and rested on compromise; and, in the particular compromise to which allusion had been made, Mr. Clay thought no man ought to be more grateful for it than the senator from South Carolina. But for that compromise, Mr. Clay was not all confident that he would have now had the honor to meet that senator face to face in this national capitol.

The senator had said, that his own position was that of state rights. But what was the character of this bill? It was a bill to strip seventeen of the states of their rightful inheritance; to sell it for a mess of pottage, to surrender it for a trifle — a mere nominal sum. The bill was, in effect, an attempt to strip and rob seventeen states of this union of their property, and to assign it over to some eight or nine of the states. If this was what the senator called

nullification,) to a state of war; and I, therefore, wished to save the effusion of human blood, and especially the blood of our fellow-citizens. That was one motive with me; and another was a regard for that very interest which the senator says I helped to destroy. I saw that this great interest had so got in the power of the chief magistrate, that it was evident that, at the next session of congress, the whole protective system would be swept by the board. I therefore desired to give it, at least, a lease of years; and for that purpose, I, in concert with others, brought forward that measure, which was necessary to save that interest from total annihilation.

But, to display still further the circumstances in which the senator is placed, he says, from that very day of the compromise, all obligations were cancelled that could, on account of it, rest on him, on South Carolina, and on the south. Sir, what right has he to speak in the name of the whole south? or even of South Carolina itself? For, if history is to be called upon, if we may judge of the future from the past, the time will come when the senator cannot propose to be the organ even of the chivalrous and enlightened people of South Carolina.

Sir, I am not one of those who are looking out for what may ensue to themselves. My course is nearly run; it is so by nature, and so in the progress of political events. I have nothing to ask of the senator of the south, nor of South Carolina, nor yet of the country at large. But I will go, when I do go, or when I choose to go, into retirement, with the undying conviction, that, for a quarter of a century, I have endeavored to serve and to save the country, faithfully and honorably, without a view to my own interest, or my own aggrandizement; and of that delightful conviction and consciousness no human being, nor all mankind, can ever deprive me. * * * * *

One word — does not the senator feel that he himself brings his political character into debate? I simply made the inquiry, (and I put it to the senators to say if such was the fact,) to know whether this measure, which involves, in all, about a thousand millions of the public lands — whether this measure had the sanction of the administration or not. I did it in no way for the purpose of offence; and, by the way, I referred to a rumor which is afloat, of new relations, public and political, with the head of the administration, and stated, that I would not have made the inquiry but for that fact. And is it not right, in regard to a great measure, to know whether or not it has the support of the administration? He would at once have put an end to the discussion if he had simply said he knew nothing of the views of the administration, but had introduced this measure independently. But instead of this, he gets in a passion because I referred to this rumor, and concludes by saying, that the greater part of the measures of the present administration are approved, and they will be supported by him.

# ON THE SUB-TREASURY BILL.

## IN THE SENATE OF THE UNITED STATES, JANUARY 20, 1840

[THE independent, or sub-treasury scheme, (or a plan for the collection of the revenue in specie,) being again pressed upon congress at this session by the president, (Van Buren,) Mr. Clay, notwithstanding his previous participation in the discussion of the subject when it was before congress, in the following lucid and elaborate speech sets forth the pernicious effects of the proposed measure to be produced upon the currency, commerce, and industry of the nation. The bill, however, passed the senate by a vote of twenty-four to eighteen, and after a long contest, also in the house of representatives, in July, 1840, by a vote of one hundred and twenty-four to one hundred and seven. It was repealed in August, 1841.]

I HAVE been desirous, Mr. President, before the passage of this bill, not to make a speech, but to say a few words about it. I

senators from Tennessee had clung to their seats with the same tenacity with which other senators adhere to theirs, who would have been instructed to vote against the bill, and are violating their instructions; and if the senate were full, the vacant seats being filled, as we have every reason to believe they will be filled; there would be a clear majority against the passage of the bill. Thus is this momentous measure, which both its friends and foes unite in thinking will exert a tremendous, if not revolutionary influence upon the business and concerns of the country — a measure which has so long and so greatly distracted and divided our councils, and against which the people have so often and so signally pronounced their judgment — to be forced through the senate of the United States.

Mr. President, it is no less the duty of the statesman than of the physician to ascertain the exact state of the body to which he is to minister before he ventures to prescribe any healing remedy. It is with no pleasure, but with profound regret, that I survey the present condition of our country. I have rarely, I think never, known a period of such universal and intense interest. The general government is in debt, and its existing revenue is inadequate to meet its ordinary expenditure. The states are in debt, some of them largely in debt, insomuch that they have been compelled to resort to the ruinous expedient of contracting new loans to meet the interest on prior loans; and the people are surrounded with difficulties, greatly embarrassed, and involved in debt. Whilst this is, unfortunately, the general state of the country, the means of extinguishing this vast mass of debt are in constant diminution. Property is falling in value; all the great staples of the country are declining in price, and destined, I fear, to further decline. The certain tendency of this very measure is to reduce prices. The banks are rapidly decreasing the amount of their circulation. About one half of them, extending from New Jersey to the extreme southwest, have suspended specie payments, presenting an image of a paralytic, one moiety of whose body is stricken with palsy. The banks are without a head; and instead of union, concert, and coöperation between them, we behold jealousy, distrust, and enmity. We have no currency whatever possessing uniform value throughout the whole country. That which we have, consisting almost entirely of the issues of banks, is in a state of the utmost disorder, insomuch that it varies, in comparison with the specie standard, from par to fifty per centum discount. Exchanges, too, are in the greatest possible confusion; not merely between distant parts of the union, but between cities and places in the same neighborhood; that between our great commercial marts of New York and Philadelphia, within five or six hours of each other, vacillating between seven and ten per centum. The products of our agricultural industry are unable to find their way

to market from the want of means in the hands of traders to purchase them, or from the want of confidence in the stability of things; many of our manufactories stopped or stopping, especially in the important branch of woollens; and a vast accumulation of their fabrics on hand, owing to the destruction of confidence, and the wretched state of exchange between different sections of the union.

Such is the unexaggerated picture of our present condition; and amidst the dark and dense cloud that surrounds us, I perceive not one gleam of light. It gives me nothing but pain to sketch the picture. But duty and truth require that existing diseases should be fearlessly examined and probed to the bottom. We shall otherwise be utterly incapable of conceiving or applying appropriate remedies. If the present unhappy state of our country had been brought upon the people by their folly and extravagance, it ought to be borne with fortitude, and without complaint, and without reproach. But it is my deliberate judgment that it has not been; that the people are not to blame, and that the principal causes of existing embarrassments are not to be traced to them. Sir, it is not my purpose to waste the time or excite the feelings of members of the senate by dwelling long on what I suppose to be those causes. My object is a better, a higher, and I hope a more acceptable one — to consider the remedies proposed

ment, and it is in vain that the bounties of heaven are profusely scattered around us.

There is one man, and I lament to say, from the current of events and the progress of executive and party power, but one man at present in the country, who can bring relief to it, and bind up the bleeding wounds of the people. He, of all men in the nation, ought to feel as a parent should feel, most sensibly, the distresses and sufferings of his family. But looking to his public course, and his official acts, I am constrained to say, that he surveys unconcerned the wide-spread ruin, and bankruptcy, and wretchedness before him, without emotion and without sympathy. Whilst all the elements of destruction are at work, and the storm is raging, the chief magistrate, standing in the midst of his unprotected fellow-citizens, on the distinguished position of honor and confidence to which their suffrages have devoted him, deliberately wraps around himself the folds of his India-rubber cloak, and lifting his umbrella over his head, tells them, drenched and shivering as they are under the beating rain and hail and snow falling upon them, that he means to take care of himself and the official corps, and that they are in the habit of expecting too much from government, and must look out for their own shelter, and security, and salvation!

And now allow me to examine, and carefully and candidly consider the remedy which this bill offers to a suffering people, for the unparalleled distresses under which they are writhing. I will first analyse and investigate it, as its friends and advocates represent it. What is it? What is this measure which has so long and so deeply agitated this country, under the various denominations of sub-treasury, independent treasury, and divorce of the state from banks? What is it? Let us define it truly and clearly. Its whole principle consists in an exaction from the people of specie, in the payment of all their dues to government, and disbursement of specie by the government in the payment of all salaries, and of all the creditors of the government. This is its simple and entire principle. Divest the bill under consideration of all its drapery and paraphernalia, this is its naked, unvarnished, and unexaggerated principle, according to its own friends. This exclusive use of specie, in all receipts and payments of the government, it is true, is not to be instantaneously enforced; but that is the direct and avowed aim and object of the measure, to be accomplished gradually, but in the short space of a little more than three years. The twenty-eight sections of the bill, with all its safes, and vaults, and bars, and bolts, and receivers-general, and examiners, have nothing *more nor less* in view than the exaction of specie from the people, and the subsequent distribution of that specie among the officers of the government, and the creditors of the government. It does not touch, nor profess to

touch, the actual currency of the country. It leaves the local banks where it found them, unreformed, uncontrolled, unchecked in all their operations. It is a narrow, selfish, heartless measure. It turns away from the people, and abandons them to their hard and inexorable fate; leaving them exposed to all the pernicious consequences of an unsound currency, utterly irregular and disordered exchanges, and the greatest derangement in all business. It is worse; it aggravates and perpetuates the very evils which the government will not redress: for, by going into the market and creating a new and additional demand for specie, it cripples and disables the state banks, and renders them incapable of furnishing that relief to the people which a parental government is bound to exert all its energies and powers to afford. The divorce of the state from banks, of which its friends boast, is not the only separation which it makes; it is a separation of the government from the constituency; a disunion of the interests of the servants of the people, from the interests of the people.

This bill, then, is wholly incommensurate with the evils under which the country is suffering. It leaves them not only altogether unprovided for, but aggravates them. It carries no word of cheering hope or encouragement to a depressed people. It leaves their languishing business in the same state of hopeless discouragement.

But its supporters argue that such a system of convertible paper

markets. Of all conditions of society, that is most adverse in which there is a constant and rapid diminution of the amount of the circulating medium. Debtors become unable to pay their debts, property falls, the market is glutted, business declines, and labor is thrown out of employment. In such a state of things, the imagination goes ahead of the reality. Sellers become numerous, from the apprehension that their property, now falling, will fall still lower; and purchasers scarce, from an unwillingness to make investments with the hazard of almost certain loss.

Have gentlemen reflected upon the consequences of their system of depletion? I have already stated, that the country is borne down by a weight of debt. If the currency be greatly diminished, as beyond all example it has been, how is this debt to be extinguished? Property, the resource on which the debtor relied for his payment, will decline in value, and it may happen that a man, who honestly contracted debt, on the faith of property which had a value at the time fully adequate to warrant the debt, will find himself stripped of all his property, and his debt remain unextinguished. The gentleman from Pennsylvania, (Mr. Buchanan,) has put the case of two nations, in one of which the amount of its currency shall be double what it is in the other, and, as he contends, the prices of all property will be doubled in the former nation of what they are in the latter. If this be true of two nations, it must be equally true of one, whose circulating medium is at one period double what it is at another. Now, as the friends of the bill argue, we have been, and yet are in this inflated state; our currency has been double, or, in something like that proportion, of what was necessary, and we must come down to the lowest standard. Do they not perceive that inevitable ruin to thousands must be the necessary consequence? A man, for example, owning property to the value of five thousand dollars, contracts a debt for five thousand dollars. By the reduction of one half of the currency of the country, his property in effect becomes reduced to the value of two thousand five hundred dollars. But his debt undergoes no corresponding reduction. He gives up all his property, and remains still in debt two thousand five hundred dollars. Thus this measure will operate on the debtor class of the nation, always the weaker class, and that which, for that reason, most needs the protection of government.

But if the effect of this hard-money policy upon the debtor class be injurious, it is still more disastrous, if possible, on the laboring classes. Enterprise will be checked or stopped, employment will become difficult, and the poorer classes will be subject to the greatest privations and distresses. Heretofore it has been one of the pretensions and boasts of the dominant party, that they sought to elevate the poor by depriving the rich of undue advantages. Now their policy is, to reduce the wages of labor, and this is openly

avowed; and it is argued by them, that it is necessary to reduce the wages of American labor to the low standard of European labor, in order to enable the American manufacturer to enter into a successful competition with the European manufacturer in the sale of their respective fabrics. Thus is this dominant party perpetually changing, one day cajoling the poor, and fulminating against the rich; and the next, cajoling the rich, and fulminating against the poor. It was but yesterday that we heard that all who were trading on borrowed capital, ought to break. It was but yesterday we heard denounced the long established policy of the country, by which, it was alleged, the poor were made poorer, and the rich were made richer.

Mr. President, of all the subjects of national policy, not one ought to be touched with so much delicacy as that of the wages, in other words, the bread, of the poor man. In dwelling, as I have often done, with inexpressible satisfaction upon the many advantages of our country, there is not one that has given me more delight than the high price of manual labor. There is not one which indicates more clearly the prosperity of the mass of the community. In all the features of human society, there are none, I think, which more decisively display the general welfare, than a *permanent* high rate of wages, and a *permanent* high rate of interest. Of course, I do not mean those excessive high rates, of temporary existence, which result from sudden and unexpected demands for labor or capital.

the heaven of the poor man, and the hell of the rich. There was extravagance in the observation, mixed with some truth. It would have been more accurate to have said, that, with good government, it was an earthly heaven, both of the rich and poor.

It is contended, however, that the reduction of wages would be only nominal; that an exclusive specie currency being established, the prices of all commodities would fall; and that the laborer would be able to command as many of the necessaries of life with his low wages, as he can at present.

The great error of senators on the other side is, that they do not sufficiently regard the existing structure of society, the habits and usages which prevail; in short, the actual state of things. All wise legislation should be founded upon the condition of society as it is, and even where reform is necessary, it should be introduced slowly, cautiously, and with a careful and vigilant attention to all consequences. But gentlemen seem disposed to consider themselves at liberty to legislate for a new people, just sprung into existence, and commencing its career — one for which they may, without reference to what they see all around them, speculate and theorize at pleasure. Now if we were such a people, and were deliberating on the question of what was the best medium of circulation to represent the property, and transact the business of the country, it is far from being certain that it would be deemed wisest to adopt an exclusive specie standard. But when we glance at society as it actually exists, with all its relations and ramifications, its engagements, debts, wants, habits, customs, nothing can be more unwise, it seems to me, than to attempt so radical a change as that which is contemplated.

I cannot admit that the laborer, with his low wages, would be in as eligible a situation as he now is; the argument excludes all consideration of his condition, during the transition from the paper, to the specie medium. In the descending process, from an abundant to a scarce circulation, there would be nothing before him but distress and wretchedness; and he would be in the greatest danger of starvation, before the El Dorado of gentlemen was reached. The adjustment of prices to the state of the currency, is not so sudden a work as is imagined. Long after the specie standard should be established, the old prices of many articles would remain; and all foreign productions, which enter into the consumption of the poor man, would continue unaffected by our domestic currency. If it be true, that there would be no alteration in the condition of the laborer, if he would really get as much, in *value*, in the new state of things as in the old, how is that of the capitalist, engaged in manufactures, to be improved? Would not his situation also remain unaltered? The assumption, that an exclusive hard money circulation is best for the laborer, best for the manufacturer, best for the country, is against all the experience of the world. Beyond

all doubt, England is the most prosperous of all the nations of the old world, and England is the greatest paper money country that exists. Her manufactures find a market in every portion of the globe; her operatives and laborers are paid better, and fed better, than any in Europe. Have the manufactures of the hard money countries of the continent, prevailed over those of England, and driven them out of the markets, in fair competition? Far from it. Their policy is to exclude, by prohibitions and heavy duties, the entry of British goods into their ports. England has sought to make treaties with them all, and especially with France, upon the basis of free trade, and France has replied, that her manufactures are too much behind those of England to admit of their being placed upon a footing of equality. Paper money, inflated England, manufactures about two thirds of all the cotton exported from the United States; and her cotton manufacture alone, is probably greater than that of all the rest of Europe.

But, Mr. President, if the banishment from circulation of all bank paper, and the exclusive use of specie in this country were desirable, is it practicable, can it be possibly brought about? I have said that the legislator is bound to have due regard to the wants, wishes, necessities, and condition of the country for which he acts. But a practical American statesman has a further duty to perform; that of attentively considering the distribution of the

Banks, bank notes, a convertible paper money, are, therefore, inevitable. There is no escape from them. You may deliver as many homilies as you please, send forth from this capitol as many essays and disquisitions as you think proper, circulate president's messages denouncing them as widely as you choose, and thunder forth from a party press, as loud and as long as you can, against banks, and they will continue to exist in spite of you. What, then, is it the duty of a wise, practical, federal statesman to do? Since he finds a state of things which is unalterable, to which he must submit, however convinced he may be of the utility of a change, his duty is to *accommodate* his measures to this immutable state of public affairs. And, if he cannot trust the eight or nine hundred local banks which are dispersed through the country, create a federal bank, amenable to the general government, subject to its inspection and authority, and capable of supplying a general currency worthy of its confidence; make, in short, the government of the whole partake of the genius, and conform to the fixed character, of the party.

Mr. President, I never have believed that the local banks were competent to supply such a general currency, of uniform value, as this people wants, or to perform those financial offices which are necessary to a successful administration of this government. I pronounced them incompetent, at the period of the removal of the deposits; and we foretold the unfortunate state of things that now exist. But the party in power, which now denounce them, proclaimed their entire ability, not only to supply as good, but a better currency, than that which was furnished by the bank of the United States, and to perform all the financial duties which that institution fulfilled. After that party had succeeded in putting down the bank of the United States, and got their system of state banks into full operation, it continued, year after year, to announce to the public that all its expectations had been fully realized.

A bank of the United States established by this government would not only furnish it a currency in which it might safely confide, in all receipts and payments, and execute every financial office, but it would serve as a sentinel; a cement, and a regulator to the state banks. The senator from Pennsylvania has urged that the present bank of the United States of Pennsylvania, has a charter more extensive than that of the late bank of the United States; that it is, in fact, the old bank with a new charter; and that, with all its vast resources and means, it has been not only unable to act as a regulator of the local banks, but was recently the first to set the pernicious example of a suspension of specie payments.

Mr. President, can the distinguished senator be serious in his description of these attributes of the Pennsylvania bank? Surely he must have intended that part of his speech for some other

theatre. In the first place, Pennsylvania, besides sundry other onerous conditions of loans and subscriptions to objects of internal improvements, levied upon the present bank, in the form of bonus, some four or five millions of dollars. Then the general government has withdrawn from it the seven millions of stock which it held in the old bank — a circumstance which I have no doubt has tended to cripple its operations. And it is wholly without the deposits of the government, which the former bank possessed. Instead of being an ally, the general government has been in the relation of an enemy to it. And it has had to encounter all the enmity of a powerful party, within the bosom of the commonwealth. So far from assuming the office of a regulator of the local banks, its late distinguished president, upon whose authority the senator relies for proof of the extent and liberality of its new charter, expressly declared that it had ceased to be a general agent, and had retired within the circle of its state duties. So far from having derived any strength from its connection with the late bank of the United States, there cannot be a doubt that that connection rendered it far less efficient than it would have been, if it had gone into operation with an unencumbered capital, freshly subscribed, of thirty-five millions of dollars.

To guard against all misconception or misrepresentation, I repeat, what I said on a former occasion, that, although I am convinced, thoroughly convinced, that this country cannot get along

There is, sir, some truth in this representation, and every genuine American must feel it with shame and regret. It is a melancholy fact, that the arrival of steam vessels in the port of New York, from England, is looked for with more curiosity and interest, on account of the financial intelligence which they bear from London and the bank of England, than the arrival of the mail from congress. Our people have been taught, by sad experience, to expect nothing good from the councils of their own country, and turn their attention towards the operations in a foreign country. Was this eager inquiry into the transactions of the bank of England made during the existence of the bank of the United States? No sir, no sir. You denounced this bank as a monster, destroyed it; and you have thrown us into the jaws of a foreign monster, which we can neither cage nor control. You tore from us our best shield against the bank of England, and now profess to be surprised at the influence which it exercises upon our interests! We do not find that the continental nations of Europe, that have national banks, complain of the influence of the bank of England upon them. On the contrary, the bank of England has recently been compelled to apply to the bank of France for a large sum of specie to sustain its credit and character.

But, sir, we must look to higher and much more potent causes than the operations of any bank, foreign or domestic, for the lively interest which is felt in this country, in the monetary transactions of England. In England, the credit system, as it is called, exists in a much more extensive degree than in this country; and, if it were true of the nature of that system, as is alleged, to render one country dependent upon another, why should not England be more dependent upon us, than we upon England? The real cause of our dependence arises out of the unfavorable balance of our foreign trade. We import too much, and export too little. We buy too much abroad, make too little at home. If we would shake off this degrading foreign dependence, we must produce more, or buy less. Increase our productions, in all the variety of forms in which our industry can be employed; augment the products of our soil, extend our manufactures, give new stimulus to our tonnage and fishing interests, sell more than we buy, get out of debt and keep out of debt to the foreigner, and he will no longer exert an influence upon our destiny.

And this unfavorable balance of our foreign trade is wholly independent of, and unconnected with, the nature of the character of the currency of the country, whether it be exclusively metallic, or mixed with paper and the precious metals. England, in a great measure, by means of that credit or paper system, now so much denounced, has become the centre of the commerce, the exchanges, and the moneyed operations of the world. By the extent, variety, and perfection of her manufactures, she lays most nations that

admit them freely, under contribution to her. And if we had no currency but specie, we should be just as much exposed to the moneyed power of London, or, which is the true state of the case, to the effects of an unfavorable balance of trade, as we now are. We should probably be more so; because a large portion of the specie of the country being in the vaults of a few depositaries, it would be easier then to obtain it for exportation, in the operations of commerce, than now, when it is dispersed among nine hundred or a thousand banks. What was our condition during the colonial state, when, with the exception of small amounts of government paper money, we had no currency but specie, and no banks? Were we not constantly and largely in debt to England? Was not our specie perpetually drained to obtain supplies of British goods? Do you not recollect that the subject of the British debts formed one of those matters which were embraced in the negotiations and treaty of peace, which terminated the revolutionary war? And that it was a topic of angry and protracted discussion long after, until it was finally arranged by Mr. Jay's treaty of 1794?

Look into the works of Doctor Franklin, in which there is more practical good sense to be found, than is to be met with in the same compass any where. He was the agent of Pennsylvania, from about the middle of the last century until the breaking out of the revolutionary war, and a part of the time the agent, also, of

the ladies should buy only half the amount of silks, calicoes, teas, and so forth, during the year, which they had been in the habit of consuming; and in this way by saving, the colony would make the required sum of one hundred thousand pounds. If we would, for a few years, import only half the amount from England that we have been in the habit of doing, we should no longer feel the influence of the London money power.

Mr. President, gentlemen, in my humble opinion, utterly deceive themselves, in supposing that this measure is demanded by a majority of the people of the United States, and in alleging that this is proved by the result of elections of the past year. That there were a vast majority of them opposed to it was demonstrated incontestably by previous elections. The elections of last year did not in many, perhaps most instances, turn at all upon the merits of this measure. In several states the people were deceived by assurances that the sub-treasury was at an end, and would be no longer agitated. In others, the people had reason to be dissatisfied with the conduct of their banks; and they were artfully led to believe this bill would supply a corrective of the errors of the banking system. And where they have apparently yielded their assent to the bill, it has been that sort of assent which the patient yields, whose constitution has been exhausted and destroyed by the experiments of empiricism, and who finally consents to take the last quack medicine offered to him in the hope of saving his life. I know the people of the United States well. They are ever ready cheerfully to submit to any burden demanded by the interest, the honor, or the glory of their country. But what people ever consented to increase their own burdens unnecessarily? The effect of this measure is, by exacting specie exclusively from the people, and paying it out to the official corps and the public creditor, to augment the burdens of the people, and to swell the emoluments of office. It is an insult to the understanding and judgment of the enlightened people of the United States, to assert that they can approve such a measure.

No true patriot can contemplate the course of the party in power without the most painful and mortified feelings. They began some years ago their war on the bank of the United States. It was dangerous to liberty; it had failed to fulfil the purposes of its institution; it did not furnish a sound currency, although the sun, in all its course, never shone upon a better. In short, it was a monster, which was condemned to death, and it was executed accordingly. During the progress of that war, the state banks were the constant theme of praise, in speech and song, of the dominant party. They were the best institutions in the world, free from all danger to public liberty, capable of carrying on the exchanges of the country, and of performing the financial duties to government, and of supplying a far better currency for the people than the bank of the United States. We told you that the state banks would not do,

without the coöperation of a bank of the United States. We told you that you would find them a weak league; a mere fleet of open boats tied together by a hickory withe, and which the first storm would disperse and upset. But you scorned all our warnings, and continued, year after year, to puff and praise the operations of these banks. You had the boldness, in the face of this abused nation, to aver that the country had been supplied by them with a better currency, and better exchanges, than it had been by the bank of the United States. Well, by your own measures, by your treasury circular, distribution of the surplus, and so forth, you accelerated the catastrophe of the suspension of the banks. You began with promises to the people of a better currency, better times, more security to civil liberty; and you end with no currency at all, the worst possible times, an increase of executive power, and a consequent increase of danger to civil liberty. You began with promises to fill the pockets of the people, and you end by emptying theirs and filling your own.

I now proceed, sir, to the object which constituted the main purpose of my rising at this time. I have hitherto considered the bill, as its friends in the senate represent it, as a measure simply for exacting specie, keeping it in the custody of officers of the government, and disbursing it in a course of administration. I mean now to show that, whatever its friends here may profess or believe, the bill lays the foundations, deep and broad, of a government bank—

bill. The party, its press, and its leaders, have constantly put this sub-treasury scheme in competition with a bank of the United States, and contended that the issue was sub-treasury or bank of the United States. But how can they be compared, or come in competition with each other, if the most important function of a bank of the United States — that of supplying a medium of general circulation and uniform value — is not to be performed under this bill?

I pass to the more important, and, I think, conclusive proof, supplied by the provisions themselves of the bill. After providing that all money paid to government for duties, public lands, and other dues, shall be deposited with the treasurer of the United States, the receivers-general, and the mints, the tenth section enacts:

'That it shall be lawful for the secretary of the treasury to transfer the moneys in the hands of any depositary hereby constituted, to the treasury of the United States; to the mint at Philadelphia; to the branch mint at New Orleans; or to the offices of either of the receivers-general of public moneys, by this act directed to be appointed; to be there safely kept, according to the provisions of this act; and also to transfer moneys in the hands of any one depositary constituted by this act, to any other depositary constituted by the same, at his discretion, and as the safety of the public moneys, and the convenience of the public service, shall seem to him to require; which authority to transfer the moneys belonging to the post-office department is also hereby conferred upon the postmaster-general, so far as its exercise by him may be consistent with the provisions of existing laws; and every depositary constituted by this act, shall keep his account of the moneys paid to or deposited with him, belonging to the post-office department, separate and distinct from the account kept by him of other public moneys so paid or deposited. And for the purpose of payments on the public account, it shall be lawful for the treasurer of the United States to draw upon any of the said depositaries, as he may think most conducive to the public interests, or to the convenience of the public creditors, or both.'

Thus is the secretary invested with unlimited authority to transfer the public money from one depositary to another, and to concentrate it all, if he pleases, at a single point. But, without this provision, the city of New York necessarily must be the place at which the largest portion of the public money will be constantly in deposit. It collects alone about two thirds of the duties on imports, and is becoming, if it be not already, the money centre of the United States. It is not indispensable, to create a bank of issues, that the place of issue and the place of payment should be identical. The issue of the paper may be at one city, and the place of payment may be a different and even distant city. Nor is the form of the paper material, so as to carry it into the general circulation of the money of the country. Whether it be in the shape of bank notes, bank checks, post-notes, or treasury drafts, is of no consequence. If there be confidence in it, and the paper be of convenient amount, passes by delivery, and entitles the holder to demand the specie upon its face, at his pleasure; it will enter into the general circulation; and the extent of its circulation will be governed by the amount issued, and the confidence which it enjoys.

I presume that no one will contest these principles. Let us apply

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signatures usual to bank paper.
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with the public money committed to their charge; may peculate or speculate as they please, and, unlike the condition of banks, whose fraudulent officers squander the means of those institutions, the nation remains bound for the redemption of all paper issued under its authority. But the paper of the late bank of the United States acquired a confidence every where, more or less, in and out of the United States. It was received in Canada, in Europe, and at Canton. The government drafts upon receivers-general will have a much more sure and extensive circulation. Who will doubt their payment? Who will question the honor and good faith of the United States in their redemption? The bankers of Europe, the Rothschilds and the Barings, will receive them without hesitation, and prefer them to the specie they represent, whenever the rate of exchange is not decidedly against this country, because they can be more safely and conveniently kept than specie itself. And with respect to our state banks, the treasury drafts will form the basis of their operations. They will be preferred to specie, because they will be more convenient, and free from the hazards incident to the possession of specie. The banks will require no more specie than the wants of the community for change make necessary.

Thus, sir, will these government drafts, or bank notes, as they may be called, remain out in circulation. The issues of the first year, under appropriations of the public revenue, will be followed by the issues of succeeding years. More and more will it be perceived to be needless and indiscreet to cash them; and more and more will the specie of the country accumulate in the custody of the receivers-general, until, after a few years, the greater part of the specie of the country will be found in the vaults of the depositaries, represented by an equal amount of government paper in circulation. I can conceive of no case or motive, but one, for withdrawing the specie from the vaults of the depositaries, and that is, when, from an unfavorable state of our foreign trade, the course of foreign exchange is much against us; and then this system will furnish great facilities to the export of the precious metals.

In process of time, it will be seen, as was observed with respect to the bank of Amsterdam, that there is a much larger amount of specie in deposit with the receivers-general, than is likely to be called for by the paper representing it in circulation, in the common transactions of the business and commerce of the country; and what has been done before, will be done again. Government in a time of necessity, will be tempted to increase its paper issues upon the credit of this dormant specie capital. It will be tempted again and again to resort to this expedient, since it is easier to make emissions of paper, than to lay the burden of taxation on the people. The history of American paper money, during the revolution, of French assignats, and of government banks, throughout the world, tells the whole tale, and gives you the denouement.

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at your hands, and you will be most ready to grant the required boon. We should regard the system according to its true and inherent character, and not be deceived by provisions, inevitably temporary in their nature, which the policy or the prudence of its authors may throw around it. The greatest want of this country, at the present period, in its circulating medium, is some convertible paper, which, at every extremity of the union, will command the confidence of the public, and circulate without depreciation. Such a paper will be supplied in the form of these government drafts.

But if the restriction which I have been considering could be enforced and continued, it would not alter the bank character of this measure. Bank or no bank, is a question not depending upon the duration of time which its issues remain out, but upon the *office* which they perform whilst *out*. The notes of the bank of the United States of Pennsylvania are not deprived of their character of composing a part of the circulating medium of the country, although they might be returned to the bank in some ten or twenty days after their issue.

I know that it has been argued, and will be argued again, that at all times, since the commencement of the government, the practice of the treasury has been, to issue its drafts upon the public depositaries; that these drafts have not heretofore circulated as money; and that if they now do, it is an incident which attaches no blame to the government.

But heretofore these drafts were issued upon banks, and the holders of them passed to their credit with the banks or received payment in bank notes. The habit of the country — and habit was a great thing — was to use bank notes. Moreover, there were bank notes of every kind in use; those which were local and those which were general in their credit and circulation. Now, having no bank of the United States in existence, there are no bank notes which maintain the same value, and command the public confidence, throughout the union. You create, therefore, an inexorable necessity for the use of government drafts as a medium of general circulation, and argue from a state of things when no such necessity existed!

The protestation of the friends of the bill in this chamber, the denunciations of its opponents, and the just horror which the people entertain of a government bank, may prompt the secretary of the treasury, slowly and slyly, to lift the veil which masks its true features. A government bank may not suddenly burst upon us, but *there* it is, embodied in *this* bill; and it is not the least objection to the measure that it depends upon the discretion of a secretary of the treasury to retard or accelerate the commencement of its operation at his pleasure. Let the reëlection of the present chief magistrate be secured, and you will soon see the bank disclosing its genuine character. But, thanks be to God, there is a

day of reckoning at hand. All the signs of the times clearly indicate its approach; and on the fourth day of March, in the year of our Lord 1841, I trust that the long account of the abuses and corruptions of this administration, in which this measure will be a conspicuous item, will be finally and for ever adjusted.

Mr. President, who is to have the absolute control of this government bank? We have seen, within a few years past, a most extraordinary power asserted and exercised. We have seen in a free, representative, republican government, the power claimed by the executive, and it is now daily enforced, of dismissing all officers of the government without any other cause than a mere difference of opinion. No matter what may be the merits of the officer; no matter how long and how faithfully he may have served the public; no matter what sacrifices he may have made; no matter how incompetent, from age and poverty, he may be to gain a subsistence for himself and family, he is driven out to indigence and want for no other reason than that he differs in opinion with the president on the sub-treasury, or some other of the various experiments upon the prosperity of this people. But this is not all; if you call upon the president to state the reasons which induced him, in any particular instance, to exercise this tremendous power of dismission, wrapping himself up in all the dignity and arrogance of royal majesty, he refuses to assign any reason whatever, and tells you it is his prerogative! that you have no right to interrogate him as

redress, if they are dismissed without cause, they become his pliant creatures, and feel that they are bound implicitly to obey his will.

Now, sir, put this government bank into operation, and who are to be charged with the administration of its operations? The secretary of the treasury, the treasurer of the United States, the register and comptroller of the treasury, and the receivers-general, and so forth; every one of them holding his office at the pleasure and mercy of the president; every one of them, perhaps, depending for his bread upon the will of the president; every one of them taught, by sad experience, to know that his safest course is to mould his opinions, and shape his conduct, so as to please the president; every one of them knowing perfectly, that, if dismissed, he is without the possibility of any remedy or redress whatever. In such a deplorable state of things, this government bank will be the mere bank of the president of the United States. He will be the *president, cashier, and teller.* Yes, sir, this complete subjection of all the subordinate officers of the government to the will of the president, will make him sole director, president, cashier, and teller of this government bank. The so much dreaded union of the purse and the sword will at last be consummated, and the usurpation, by which the public deposits, in 1837, were removed by the advancement of the one, and the removal of another secretary of the treasury, will not only be finally legalized and sanctioned, but the enormity of the danger of that precedent will be transcended by a deliberate act of the congress of the United States!

Mr. President, for ten long years we have been warring against the alarming growth of executive power; but, although we have been occasionally cheered, it has been constantly advancing, and never receding. You may talk as you please about bank expansions. There has been no pernicious expansion in this country like that of executive power; and, unlike the operations of banks, this power never has any periods of contraction. You may denounce, as you please, the usurpations of congress. There has been no usurpation but that of the executive, which has been both of the powers of other coördinate departments of this government, and upon the states. There scarcely remains any power in this government but that of the president. He suggests, originates, controls, checks every thing. The insatiable spirit of the Stuarts, for power and prerogative, was brought upon our American throne on the fourth of March, 1829. It came under all the usual false and hypocritical pretences and disguises, of love of the people, desire of reform, and diffidence of power. The Scotch dynasty still continues. We have had Charles the first, and now we have Charles the second. But I again thank God, that our deliverance is not distant; and that, on the fourth of March, 1841, a great and glorious revolution, without blood and without convulsion, will be achieved.

[A NATIONAL convention of whig
1840, to take measures to promote the
the United States. On this occasion,
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MR. CLAY commenced by
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All these are the fruits of the
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hopes with yours, my heart with yours, and my exertions with your exertions. Our enemies hope to conquer us, but they are deluded, and doomed to disappointment.

Mr. Clay then alluded most happily, and amid the cheers of all around him, to the union of the whigs. We are, said he, all whigs, we are all Harrison men. *We are united.* We must triumph.

One word of myself, he said, referring to the national convention which met at Harrisburgh in December last. That convention was composed of as enlightened and as respectable a body of men as were ever assembled in the country. They met, deliberated, and after a full and impartial deliberation, decided that William Henry Harrison was the man best calculated to unite the whigs of the union against the present executive. General Harrison was nominated, and cheerfully, and without a moment's hesitation, I gave my hearty concurrence in that nomination. From that moment to the present, I have had but one wish, one object, one desire, and that is, to secure the election of the distinguished citizen who received the suffrages of the convention.

Allow me here to say, continued Mr. Clay, that his election is certain. This I say, not in any boasting or over confident sense, far from it. But I feel sure, almost, that there are twenty states who will give their votes for Harrison. Do not the glories of this day authorize the anticipation of such a victory? I behold before me more than twenty thousand freemen, and is it anticipating too much to say that such an assembly as this is a sign ominous of triumph.

Mr. Clay then warned his friends of two great errors in political warfare — too much confidence, and too much despondency. Both were to be feared. There should be no relaxation. The enemy were yet powerful in numbers, and strong in organization. It became the whigs, therefore, to abstain from no laudable exertion necessary to success. Should we fail, he added, should Mr. Van Buren be reëlected, which calamity God avert, though he would be the last man to despair of the republic, he believed the struggle of restoring the country to its former glory would be almost a hopeless one. That calamity, however, or the alternative, was left with the twenty thousand whigs here assembled.

We received our liberty, said Mr. Clay, in conclusion, from our revolutionary ancestors, and we are bound in all honor, to transfer it unimpaired to our posterity. The breeze which this day blows from the right quarter, is the promise of that popular breeze which will defeat our adversaries, and make William Henry Harrison the president of the United States.

# ON THE STATE OF THE COUNTRY UNDER MR. VAN BUREN'S ADMINISTRATION.

## AT HANOVER COUNTY, VIRGINIA, JUNE 27, 1840

[MR. CLAY, having accepted an invitation to visit his friends in his native county of Hanover, Virginia, met them at a public entertainment given him at Taylorsville, in that county, on the above day, and, in accordance with their wishes and expectations, he addressed them in the following elaborate remarks on topics of great interest, which then particularly engaged the public mind. Reviewing the measures of Mr. Van Buren's administration, preceded by those of general Jackson's, he gives his views of the measures necessary to be adopted to restore public prosperity, and concludes with an exhortation to his whig friends to do their duty in the then forthcoming election, which resulted in the success of their candidate, general Harrison.]

THE sentiment in compliment to Mr. Clay was received with

cast by the accidents of human life, beyond the mountains or beyond the ocean, in the legislative halls of the capitol, or in the retreats and shades of private life, our hearts turn with an irresistible instinct to the cherished spot which ushered us into existence. And we dwell with delightful associations on the recollection of the streams in which, during our boyish days, we bathed, the fountains at which we drank, the piny fields, the hills and the valleys where we sported, and the friends who shared these enjoyments with us. Alas! too many of these friends of mine have gone whither we must all shortly go, and the presence here of the small remnant left behind, attests both our loss and our early attachment. I would greatly prefer, my friends, to employ the time which this visit affords in friendly and familiar conversation on the virtues of our departed companions, and on the scenes and adventures of our younger days; but the expectation which prevails, the awful state of our beloved country, and the opportunities which I have enjoyed in its public councils, impose on me the obligation of touching on topics less congenial with the feelings of my heart, but possessing higher public interest. I assure you, fellow-citizens, however, that I present myself before you for no purpose of exciting prejudices or inflaming passions, but to speak to you in all soberness and truth, and to testify to the things which I know, or the convictions which I entertain, as an ancient friend, who has lived long, and whose career is rapidly drawing to a close. Throughout an arduous life, I have endeavored to make truth and the good of our country the guides of my public conduct; but in Hanover county, for which I cherish sentiments of respect, gratitude, and veneration, above all other places, would I avoid saying any thing that I did not sincerely and truly believe.

Why is the plough deserted, the tools of the mechanic laid aside, and all are seen rushing to gatherings of the people? What occasions those vast and unusual assemblages, which we behold in every state, and in almost every neighborhood? Why those conventions of the people, at a common centre, from all the extremities of this vast union, to consult together upon the sufferings of the community, and to deliberate on the means of deliverance? Why this rabid appetite for public discussions? What is the solution of the phenomenon, which we observe, of a great nation agitated upon its whole surface, and at its lowest depths, like the ocean when convulsed by some terrible storm? There must be a cause, and no ordinary cause.

It has been truly said, in the most memorable document that ever issued from the pen of man, that 'all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.' The recent history of our people furnishes confirmation of that truth. They are active, enterprising, and intelligent; but are

not prone to make groundless complaints against public servants. If we now every where behold them in motion, it is because they feel that the grievances under which they are writhing can be no longer tolerated. They feel the absolute necessity of a change, that no change can render their condition worse, and that any change must better it. This is the judgment to which they have come; this the brief and compendious logic which we daily hear. They know that, in all the dispensations of Providence, they have reason to be thankful and grateful; and if they had not, they would be borne with fortitude and resignation. But there is a prevailing conviction and persuasion, that, in the administration of government, there has been something wrong, radically wrong, and that the vessel of state has been in the hands of selfish, faithless, and unskilful pilots, who have conducted it amidst the breakers.

In my deliberate opinion, the present distressed and distracted state of the country may be traced to the single cause of the action, the encroachments, and the usurpations of the executive branch of the government. I have not time here to exhibit and to dwell upon all the instances of these, as they have occurred in succession, during the last twelve years. They have been again and again exposed, on other more fit occasions. But I have thought this a proper opportunity to point out the enormity of the pretensions, principles, and practices of that department, as they have been, from time to time, disclosed, in these late years, and to show the rapid progress which has been made in the fulfilment of the remarkable language of our illustrious countryman, that the federal executive had an awful squinting towards monarchy. Here, in the county of his birth, surrounded by sons, some of whose sires with him were the first to raise their arms in defence of American liberty against a foreign monarch, is an appropriate place to expose the impending danger of creating a domestic monarch. And may I not, without presumption, indulge the hope, that the warning voice of another, although far humbler, son of Hanover, may not pass unheeded?

The late president of the United States advanced certain new and alarming pretensions for the executive department of the government, the effect of which, if established and recognised by the people, must inevitably convert it into a monarchy. The first of these, and it was a favorite principle with him, was, that the executive department should be regarded as a unit. By this principle of unity, he meant and intended, that all the executive officers of government should be bound to obey the commands and execute the orders of the president of the United States, and that they should be amenable to him, and he be responsible for them. Prior to his administration, it had been considered that they were bound to observe and obey the constitution and laws, subject only to the general superintendence of the president, and responsible by

impeachment, and to the tribunals of justice, for injuries inflicted on private citizens.

But the annunciation of this new and extraordinary principle was not of itself sufficient for the purpose of president Jackson; it was essential that the subjection to his will, which was its object, should be secured by some adequate sanction. That he sought to effect by an extension of another principle, that of dismission from office, beyond all precedent, and to cases and under circumstances which would have furnished just grounds of his impeachment, according to the solemn opinion of Mr. Madison, and other members of the first congress, under the present constitution.

Now, if the whole official corps, subordinate to the president of the United States, are made to know and to feel that they hold their respective offices by the tenure of conformity and obedience to his will, it is manifest, that they must look to that will, and not to the constitution and laws, as the guide of their official conduct. The weakness of human nature, the love and emoluments of office, perhaps the bread necessary to the support of their families, would make this result absolutely certain.

The development of this new character to the power of dismission, would have fallen short of the aims in view, without the exercise of it were held to be a prerogative, for which the president was to be wholly irresponsible. If he were compelled to expose the grounds and reasons upon which he acted, in dismissals from office, the apprehension of public censure would temper the arbitrary nature of the power, and throw some protection around the subordinate officer. Hence the new and monstrous pretension has been advanced, that, although the concurrence of the senate is necessary by the constitution, to the confirmation of an appointment, the president may subsequently dismiss the person appointed, not only without communicating the grounds on which he has acted to the senate, but without any such communication to the people themselves, for whose benefit all offices are created! And so bold and daring has the executive branch of the government become, that one of its cabinet ministers, himself a subordinate officer, has contemptuously refused, to members of the house of representatives, to disclose the grounds on which he has undertaken to dismiss from office persons acting as deputy postmasters in his department!

As to the gratuitous assumption, by president Jackson, of responsibility for all the subordinate executive officers, it is the merest mockery that was ever put forth. They will escape punishment by pleading his orders, and he, by alleging the hardship of being punished, not for his own acts, but for theirs. We have a practical exposition of this principle in the case of the two hundred thousand militia. The secretary of war comes out to screen the president, by testifying that he never saw what he strongly recommended;

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treasury, without the concurrence and signature of the secretary, the treasurer, the register, and the comptroller. But are not all these pretended securities idle and unavailing forms? We have seen, that by the operation of the irresponsible power of dismission, all those officers are reduced to mere automata, absolutely subjected to the will of the president. What resistance would any of them make, with the penalty of dismission suspended over their heads, to any orders of the president, to pour out the treasure of the United States, whether an act of appropriation existed or not? Do not mock us with the vain assurance of the honor and probity of a president, nor remind us of the confidence which we ought to repose in his imagined virtues. The pervading principles of our system of governments — of all free government — is not merely the possibility, but the absolute certainty of infidelity and treachery, with even the highest functionary of the state; and hence all the restrictions, securities, and guarantees, which the wisdom of our ancestors or the sad experience of history had inculcated, have been devised and thrown around the chief magistrate.

Here, friends and fellow-citizens, let us pause and contemplate this stupendous structure of executive machinery and despotism, which has been reared in our young republic. The executive branch of the government is a unit; throughout all its arteries and veins, there is to be but one heart, one head, one will. The number of the subordinate executive officers and dependents in the United States has been estimated, in an official report, founded on public documents, made by a senator from South Carolina, (Mr. Calhoun,) at one hundred thousand. Whatever it may be, all of them, wherever they are situated, are bound implicitly to obey the orders of the president. And absolute obedience to his will is secured and enforced, by the power of dismissing them, at his pleasure, from their respective places. To make this terrible power of dismission more certain and efficacious, its exercise is covered up in mysterious secrecy, without exposure, without the smallest responsibility. The constitution and laws of the United States are to be executed in the sense in which the president understands them, although that sense may be at variance with the understanding of every other man in the United States. It follows, as a necessary consequence, from the principles deduced by the president from the constitutional injunction as to the execution of the laws, that, if an act of congress be passed, in *his opinion*, contrary to the constitution, or if a decision be pronounced by the courts, in his opinion, contrary to the constitution or the laws, that act or that decision the president is not obliged to enforce, and he could not cause it to be enforced, without a violation, as is pretended, of his official oath. Candor requires the admission that the principle has not yet been pushed in practice in these cases; but it manifestly comprehends them; and who doubts that, if the

spirit of usurpation is not arrested and rebuked, they will be finally reached? The march of power is ever onward. As times and seasons admonished, it openly and boldly, in broad day, makes its progress; or, if alarm be excited by the enormity of its pretensions, it silently and secretly, in the dark of the night, steals its devious way. It now storms and mounts the ramparts of the fortress of liberty; it now saps and undermines its foundations. Finally, the command of the army and navy being already in the president, and having acquired a perfect control over the treasury of the United States, he has consummated that frightful union of purse and sword, so long, so much, so earnestly deprecated by all true lovers of civil liberty. And our present chief magistrate stands solemnly and voluntarily pledged, in the face of the whole world, to follow in the footsteps, and carry out the measures and the principles, of his illustrious predecessor!

The sum of the whole is, that there is but one power, one control, one will, in the state. All is concentrated in the president. He directs, orders, commands, the whole machinery of the state. Through the official agencies, scattered throughout the land, and absolutely subjected to his will, he executes, according to his pleasure or caprice, the whole power of the commonwealth, which has been absorbed and engrossed by him. And one sole will predominates in, and animates the whole of, this vast community. If this be not practical despotism, I am incapable of conceiving or defining it. Names are nothing. The existence or non-existence of arbitrary government does not depend upon the title or denomination bestowed on the chief of the state, but upon the quantum of power which he possesses and wields. Autocrat, sultan, emperor, dictator, king, doge, president, are all mere names, in which the power respectively possessed by them is not to be found, but is to be looked for in the constitution, or the established usages and practices, of the several states which they govern and control. If the autocrat of Russia were called president of all the Russias, the actual power remaining unchanged, his authority, under his new denomination, would continue undiminished; and if the president of the United States were to receive the title of autocrat of the United States, the amount of his authority would not be increased, without an alteration of the constitution.

General Jackson was a bold and fearless reaper, carrying a wide row, but he did not gather the whole harvest; he left some gleanings to his faithful successor, and he seems resolved to sweep clean the field of power. The duty of inculcating on the official corps the active exertion of their personal and official influence, was left by him to be enforced by Mr. Van Buren, in all popular elections. It was not sufficient that the official corps was bound implicitly to obey the will of the president. It was not sufficient that this obedience was coerced by the tremendous power of

dismission. It soon became apparent, that this corps might be beneficially employed, to promote, in other matters than the business of their offices, the views and interest of the president and his party. They are far more efficient than any standing army of equal numbers. A standing army would be separated, and stand out from the people, would be an object of jealousy and suspicion; and, being always in corps, or in detachments, could exert no influence on popular elections. But the official corps is dispersed throughout the country, in every town, village, and city, mixing with the people, attending their meetings and conventions, becoming chairmen and members of committees, and urging and stimulating partisans to active and vigorous exertion. Acting in concert, and, throughout the whole union, obeying orders issued from the centre, their influence, aided by executive patronage, by the post-office department, and all the vast other means of the executive, is almost irresistible.

To correct this procedure, and to restrain the subordinates of the executive from all interference with popular elections, my colleague, (Mr. Crittenden,) now present, introduced a bill in the senate. He had the weight of Mr. Jefferson's opinion, who issued a circular to restrain federal officers from intermeddling in popular elections. He had before him the British example, according to which, place-men and pensioners were not only forbidden to interfere, but were not, some of them, even allowed to vote at popular elections. But his bill left them free to exercise the elective franchise, prohibiting only the use of their official influence. And how was this bill received in the senate? Passed, by those who profess to admire the character, and to pursue the principles of Mr. Jefferson? No such thing. It was denounced as a sedition bill. And the just odium of that sedition bill, which was intended to protect office-holders against the people, was successfully used to defeat a measure of protection of the people against the office-holders! Not only were they left unrestrained, but they were urged and stimulated by an official report, to employ their influence in behalf of the administration, at the elections of the people.

Hitherto, the army and the navy have remained unaffected by the power of dismission, and they have not been called into the political service of the executive. But no attentive observer of the principles and proceedings of the men in power could fail to see that the day was not distant, when they, too, would be required to perform the partisan offices of the president. Accordingly, the process of converting them into executive instruments has commenced in a court-martial assembled at Baltimore. Two officers of the army of the United States have been there put upon their solemn trial, on the charge of prejudicing the democratic party, by making purchases for the supply of the army, from members of the whig party! It is not pretended that the United States were

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war. All entertain the opinion, that it is important to train the militia, and render it effective; and it will be insisted, in the contingency mentioned, that the people have demonstrated that they approve of that specific plan. There is more reason to apprehend such a consequence, from the fact that a committee of the senate, to which this subject was referred, instead of denouncing the scheme as unconstitutional, and dangerous to liberty, presented a labored apologetic report, and the administration majority in that body ordered twenty thousand copies of the apology to be printed, for circulation among the people. I take pleasure in testifying, that one administration senator had the manly independence to denounce, in his place, the project as unconstitutional. That senator was from your own state.

I have thus, fellow-citizens, exhibited to you a true and faithful picture of executive power, as it has been enlarged and expanded within the last few years, and as it has been proposed further to extend it. It overshadows every other branch of the government. The source of legislative power is no longer to be found in the capitol, but in the palace of the president. In assuming to be a part of the legislative power, as the president recently did, contrary to the constitution, he would have been nearer the actual fact if he had alleged that he was the sole legislative power of the union. How is it possible for public liberty to be preserved, and the constitutional distributions of power, among the departments of government, to be maintained, unless the executive career be checked and restrained?

It may be urged that two securities exist; first, that the presidential term is of short duration; and, second, the elective franchise. But it has been already shown, that whether a depository of power be arbitrary or compatible with liberty, does not depend upon the duration of the official term, but upon the amount of power invested. The dictatorship in Rome, was an office of brief existence, generally shorter than the presidential term. Whether the elective franchise be an adequate security or not, is a problem to be solved next November. I hope and believe it *yet* is. But if Mr. Van Buren should be reëlected, the power already acquired by the executive be retained, and that which is in progress be added to that department, it is my deliberate judgment that there will be no hope remaining for the continuance of the liberties of the country.

And yet the partisans of this tremendous executive power arrogate to themselves the name of democrats, and bestow upon us, who are opposed to it, the denomination of federalists! In the senate of the United States, there are five gentlemen who were members of the federal party, and four of them have been suddenly transformed into democrats, and are now warm supporters of this administration, whilst I, who had exerted the utmost of my humble

abilities to arouse the nation to a vindication of its insulted honor, and its violated rights, and to the vigorous prosecution of the war against Great Britain, to which they were violently opposed, find myself, by a sort of magical influence, converted into a federalist! The only American citizen that I ever met with, who was an avowed monarchist, was a supporter of the administration of general Jackson; and he acknowledged to me, that his motive was to bring about the system of monarchy, which his judgment preferred.

There were other points of difference between the federalists and the democratic, or rather republican party, of 1798, but the great, leading, prominent discrimination between them, related to the constitution of the executive department of the government. The federalists believed that, in its structure, it was too weak, and was in danger of being crushed by the preponderating weight of the legislative branch. Hence they rallied around the executive, and sought to give to it strength and energy. A strong government, an energetic executive was, among them, the common language and the great object of that day. The republicans, on the contrary, believed that the real danger lay on the side of the executive; that, having a continuous and uninterrupted existence, it was always on the alert, ready to defend the power it had, and prompt in acquiring more; and that the experience of history demonstrated that it was

president says it is wise and salutary. The democracy say it is wise and salutary.

The whigs of 1840 stand where the republicans of 1798 stood, and where the whigs of the revolution were, battling for liberty, for the people, for free institutions, against power, against corruption, against executive encroachments, against monarchy.

We are reproached with struggling for offices and their emoluments. If we acted on the avowed and acknowledged principle of our opponents, 'that the spoils belong to the victors,' we should indeed be unworthy of the support of the people. No! fellow-citizens; higher, nobler, more patriotic motives actuate the whig party. Their object is the restoration of the constitution, the preservation of liberty, and rescue of the country. If they were governed by the sordid and selfish motives acted upon by their opponents, and unjustly imputed to them, to acquire office and emolument, they have only to change their names, and enter the presidential palace. The gate is always wide open, and the path is no narrow one which leads through it. The last comer, too, often fares best.

On a resurvey of the few past years we behold enough to sicken and sadden the hearts of true patriots. Executive encroachment has quickly followed upon executive encroachment; persons honored by public confidence, and from whom nothing but grateful and parental measures should have flowed, have inflicted stunning blow after blow, in such rapid succession, that, before the people could recover from the reeling effects of one, another has fallen heavily upon them. Had either of various instances of executive misrule stood out separate and alone, so that its enormity might have been seen and dwelt upon with composure, the condemnation of the executive would have long since been pronounced; but it has hitherto found safety and impunity in the bewildering effects of the multitude of its misdeeds. The nation has been in the condition of a man who, having gone to bed after his barn has been consumed by fire, is aroused in the morning to witness his dwelling-house wrapped in flames. So bold and presumptuous had the executive become, that, penetrating in its influence the hall of a coördinate branch of the government, by means of a submissive or instructed majority of the senate, it has caused a record of the country to be effaced and expunged, the inviolability of which was guarantied by a solemn injunction of the constitution! And that memorable and scandalous scene was enacted only because the offensive record contained an expression of disapprobation of an executive proceeding.

If this state of things were to remain — if the progress of executive usurpation were to continue unchecked, hopeless despair would seize the public mind, or the people would be goaded to acts of open and violent resistance. But, thank God, the power

of the president, fearful and rapid as its strides have been, is not *yet* too great for the power of the elective franchise; and a bright and glorious prospect, in the election of William Henry Harrison, has opened upon the country. The necessity of a change of rulers has deeply penetrated the hearts of the people; and we every where behold cheering manifestations of that happy event. The fact of his election alone, without reference to the measures of his administration, will powerfully contribute to the security and happiness of the people. It will bring assurance of the cessation of that long series of disastrous experiments which have so greatly afflicted the people. Confidence will immediately revive, credit be restored, active business will return, prices of products will rise; and the people will feel and know that, instead of their servants being occupied in devising measures for their ruin and destruction, they will be assiduously employed in promoting their welfare and prosperity.

But grave and serious measures will, unquestionably, early and anxiously command the earnest attention of the new administration. I have no authority to announce, and do not pretend to announce the purposes of the new president. I have no knowledge of them, other than that which is accessible to every citizen. In what I shall say as to the course of a new administration, therefore, I mean to express my own sentiments, to speak for myself, without

charioteer, with frightful impetuosity, has been greatly jarred and jolted, and it needs careful examination and a thorough repair.

With the view, therefore, to the fundamental character of the government itself, and especially of the executive branch, it seems to me that, either by amendments of the constitution, when they are necessary, or by remedial legislation, when the object falls within the scope of the powers of congress, there should be,

First, a provision to render a person ineligible to the office of president of the United States, after a service of one term.

Much observation and deliberate reflection have satisfied me that too much of the time, the thoughts, and the exertions of the incumbent, are occupied, during his first term, in securing his reëlection. The public business, consequently, suffers; and measures are proposed or executed with less regard to the general prosperity than to their influence upon the approaching election. If the limitation to one term existed, the president would be exclusively devoted to the discharge of his public duties; and he would endeavor to signalize his administration by the beneficence and wisdom of its measures.

Secondly, the veto power should be more precisely defined, and be subjected to further limitations and qualifications. Although a large, perhaps the largest, proportion of all the acts of congress passed at the short session of congress, since the commencement of the government, were passed within the three last days of the session, and when, of course, the president for the time being had not the ten days for consideration, allowed by the constitution, president Jackson, availing himself of that allowance, has failed to return important bills. When not returned by the president, within the ten days, it is questionable whether they are laws or not. It is very certain that the next congress cannot act upon them by deciding whether or not they shall become laws, the president's objections notwithstanding. All this ought to be provided for.

At present, a bill, returned by the president, can only become a law by the concurrence of two thirds of the members of each house. I think if congress passes a bill after discussion and consideration, and, after weighing the objections of the president, still believes it ought to pass, it should become a law provided a majority of *all* the members of each house concur in its passage. If the weight of his argument, and the weight of his influence conjointly, cannot prevail on a majority, against their previous convictions, in my opinion, the bill ought not to be arrested. Such is the provision of the constitutions of several of the states, and that of Kentucky among them.

Thirdly, the power of dismission from office should be restricted, and the exercise of it be rendered responsible.

The constitutional concurrence of the senate is necessary to the confirmation of all important appointments; but, without consult-

ing the senate, without any other motive than resentment or caprice, the president may dismiss, at his sole pleasure, an officer created by the joint action of himself and the senate. The practical effect is, to nullify the agency of the senate. There may be, occasionally, cases in which the public interest requires an immediate dismission without waiting for the assembling of the senate; but, in all such cases, the president should be bound to communicate fully the grounds and motives of the dismission. The power would be thus rendered responsible. Without it, the exercise of the power is utterly repugnant to free institutions, the basis of which, is perfect responsibility, and dangerous to the public liberty, as has been already shown.

Fourthly, the control over the treasury of the United States, should be confided and confined exclusively to congress; and all authority of the president over it, by means of dismissing the secretary of the treasury, or other persons having the immediate charge of it, be rigorously precluded.

You have heard much, fellow-citizens, of the divorce of banks and government. After crippling them and impairing their utility, the executive and its partisans have systematically denounced them. The executive and the country, were warned again and again of the fatal course that has been pursued; but the executive nevertheless persevered, commencing by praising, and ending by

cient, but in these more degenerate times, it is necessary, by an amendment of the constitution, to give the principle greater extent.

These are the subjects, in relation to the permanent character of the government itself, which, it seems to me, are worthy of the serious attention of the people, and of a new administration. There are others, of an administrative nature, which require prompt and careful consideration.

First, the currency of the country, its stability and uniform value, and, as intimately and indissolubly connected with it, the insurance of the faithful performance of the fiscal services, necessary to the government, should be maintained and secured by exercising all the powers requisite to those objects with which congress is constitutionally invested. These are the great ends to be aimed at; the means are of subordinate importance. Whether these ends, indispensable to the well being of both the people and the government, are to be attained by sound and safe state banks, carefully selected, and properly distributed, or by a new bank of the United States, with such limitations, conditions, and restrictions, as have been indicated by experience, should be left to the arbitrament of enlightened public opinion.

Candor and truth require me to say, that, in my judgment, whilst banks continue to exist in the country, the services of a bank of the United States cannot be safely dispensed with. I think that the power to establish such a bank is a settled question; settled by Washington and by Madison, by the people, by forty years' acquiescence, by the judiciary, and by both of the great parties which so long held sway in this country. I know and I respect the contrary opinion, which is entertained in this state. But, in my deliberate view of the matter, the power to establish such a bank being settled, and being a necessary and proper power, the only question is, as to the expediency of its exercise. And on questions of mere expediency, public opinion ought to have a controlling influence. Without banks, I believe we cannot have a sufficient currency; without a bank of the United States, I fear we cannot have a sound currency. But it is the *end*, that of a sound and sufficient currency, and a faithful execution of the fiscal duties of government, that should engage the dispassionate and candid consideration of the whole community. There is nothing in the name of the bank of the United States which has any magical charm, or to which any one need be wedded. It is to secure certain great objects, without which society cannot prosper; and if, contrary to my apprehension, these objects can be accomplished by dispensing with the agency of a bank of the United States, and employing that of state banks, all ought to rejoice, and heartily acquiesce, and none would more than I should.

Second, that the public lands, in conformity with the trusts created expressly, or by just implication, on their acquisition, be

administered in a spirit of liberality towards the new states and territories, and in a spirit of justice towards all the states.

The land bill which was rejected by president Jackson, and acts of occasional legislation, will accomplish both these objects. I regret that the time does not admit of my exposing here the nefarious plans and purposes of the administration as to this vast national resource. That, like every other great interest of the country, is administered with the sole view of the effect upon the interests of the party in power. A bill has passed the senate, and is now pending before the house, according to which, forty millions of dollars are stricken from the real value of a certain portion of the public lands by a short process; and a citizen of Virginia, residing on the southwest side of the Ohio, is not allowed to purchase lands as cheap by half a dollar per acre, as a citizen living on the northwest side of that river. I have no hesitation in expressing my conviction, that the whole public domain is gone if Mr. Van Buren be reëlected.

Third, that the policy of protecting and encouraging the production of American industry, entering into competition with the rival productions of foreign industry, be adhered to and maintained on the basis of the principles and in the spirit of the compromise of March, 1833.

Protection and national independence are, in my opinion, identical and synonymous. The principle of abandonment of the

what it rightfully possesses, both the power to ascertain the true value of the thing which it taxes, as well as the amount of that tax.

Fourth, that a strict and wise economy, in the disbursement of the public money, be steadily enforced; and that, to that end, all useless establishments, all unnecessary offices and places, foreign and domestic, and all extravagance, either in the collection or expenditure of the public revenue, be abolished and repressed.

I have not time to dwell on details in the application of this principle. I will say that a pruning-knife, long, broad, and sharp, should be applied to every department of the government. There is abundant scope for honest and skilful surgery. The annual expenditure may, in reasonable time, be brought down from its present amount of about forty millions, to nearly one third of that sum.

Fifth, the several states have made such great and gratifying progress in their respective systems of internal improvement, and have been so aided by the distribution under the deposit act, that, in future, the erection of new roads and canals should be left to them, with such further aid only from the general government, as they would derive from the payment of the last instalment under that act, from an absolute relinquishment of the right of congress to call upon them to refund the previous instalments, and from their equal and just quotas, to be received by a future distribution of the net proceeds from the sales of the public lands.

And, sixth, that the right to slave property, being guarantied by the constitution, and recognised as one of the compromise incorporated in that instrument by our ancestors, should be left where the constitution has placed it, undisturbed and unagitated by congress.

These, fellow-citizens, are views both of the structure of the government and of its administration, which appear to me worthy of commanding the grave attention of the public and its new servants. Although, I repeat, I have neither authority nor purpose to commit any body else, I believe most, if not all, of them, are entertained by the political friends with whom I have acted. Whether the salutary reforms which they include will be effected or considered, depends upon the issue of that great struggle which is now going on throughout all this country. This contest has had no parallel since the period of the revolution. In both instances, there is a similarity of object. That was to achieve, this is to preserve the liberties of the country. Let us catch the spirit which animated, and imitate the virtues which adorned our noble ancestors. Their devotion, their constancy, their untiring activity, their perseverance, their indomitable resolution, their sacrifices, their valor! If they fought for liberty or death, in the memorable language of one of the most illustrious of them, let us never forget that the prize now at hazard, is liberty or slavery. We should be

encouraged by the fact, that the contest, to the success of which they solemnly pledged their fortunes, their lives, and their sacred honor, was far more unequal than that in which we are engaged. But, on the other hand, let us cautiously guard against too much confidence. History and experience prove that more has been lost by self-confidence and contempt of enemies, than won by skill and courage. Our opponents are powerful in numbers, and in organization, active, insidious, possessed of ample means, and wholly unscrupulous in the use of them. They count upon success by the use of two words, democracy and federalism; democracy, which, in violation of all truth, they appropriate to themselves, and federalism, which, in violation of all justice, they apply to us. And allow me to conjure you not to suffer yourselves to be diverted, deceived, or discouraged by the false rumors which will be industriously circulated, between the present time and the period of the election, by our opponents. They will put them forth in every variety, and without number, in the most imposing forms, certified and sworn to by conspicuous names. They will brag, they will boast, they will threaten. Regardless of all their arts, let us keep steadily and faithfully and fearlessly at work.

But if the opposition perform its whole duty; if every member of it act as in the celebrated battle of Lord Nelson, as if the eyes of the whole nation were fixed on him, and as if on his sole exertions depended the issue of the day, I sincerely believe, that at least

# AT THE HARRISON CONVENTION,

## AT NASHVILLE, TENNESSEE, AUGUST 17, 1840.

[On this occasion, a short time previous to the presidential election, an immense assemblage of whigs, called 'the southwestern convention,' met at Nashville, Tennessee, to take measures to promote the election of General Harrison. Mr. Clay accepted an urgent invitation to be present, and address the convention, the substance of which address is subjoined, relating to the political topics of the day, and some reminiscences of the past; alluding, also, to his political differences with general Jackson, whose residence was near Nashville.]

Mr. Clay was called for, with an enthusiasm which seemed to have no bounds; and, when he came forward, with those characteristic smiles playing all over his remarkable countenance, the air was rent with nine such cheers as it has seldom fallen to the lot of any man to receive. When those had subsided, he commenced somewhat as follows.

Mr. President, gentlemen of the convention, ladies, friends, and fellow-citizens. This day may be likened to the glorious and genial sun that now shines upon us. Clouds are occasionally flitting over it, and obscuring, for the moment, its beaming rays, but truth will break through the mist, and shine the brighter for having been for a time obscured. By November next, the dark clouds which have been lowering above the political horizon, will all disappear. I congratulate this vast multitude upon the glorious prospect before us.

This, said Mr. Clay, is a convention of the people, and he asked if he might not, without arrogance, revert to the cause of his appearing before them. During the arduous contest in which he had been long engaged, occasional clouds lowered about him, but, conscious of the correctness of his motives, of the purity of his intentions, he had stood out from the beginning dauntless, erect, and undismayed.

Had he visited Tennessee during the campaign to which he had alluded, he would have disabused the public mind in relation to the charges which were made against him. In giving his vote, in 1825, for Mr. John Quincy Adams, he obeyed the wishes of his constituents. It had been charged that he did not do this, but the charge was unfounded. It was true that the legislature of Kentucky at the time, made a request that he should give a different vote; but that body, in making the request, went beyond its province; it

had no right to interfere in the matter; the right belonged exclusively to his constituents, in the counties of Fayette, Woodford, and Jessamine. Each of these counties sustained, approved, and ratified his conduct at the time, and neither of them has ever, to this day, revoked or annulled that approbation. With respect to his motives, for the course he pursued, he had nothing, on this occasion, to offer. Those motives were known to, and would be adjudged by, his God. He never doubted that the day would come when justice would be done him. Yes, he never doubted that brave, generous, patriotic Tennesseans would be among the first to do him justice. This, he felt they had done. The welcome with which he was greeted on his arrival; the procession, the banners, and last, though not least, the many bright eyes that beamed, and the handkerchiefs that waved on the occasion, all spoke to him a language of true and heartfelt welcome, as grateful as it was flattering to his feelings.

It was true, that he had some reluctance, some misgivings, about making this visit at this time, which grew out of a supposition that his motives might be misconstrued. The relations which had for a long time existed between himself and the illustrious captain in this neighborhood, were well understood. He feared, if he accepted the invitation to make the visit now, that it might be thought by some that his motives were less patriotic than sinister or selfish. But he assured that great assemblage, that towards that illustrious

selected to address the audience upon. He had thought to refer to, among other things, some of the very extraordinary doctrines now advanced, by those who profess to entertain the greatest veneration and regard for the state rights doctrines. In this connection, he brought up the ridiculous manœuvre, in the United States senate, at the late session, on the subject of the debts of the several states. A long report was made, that the general government would not assume the payment of those debts — a thing that nobody ever dreamed of! This report, of which an extraordinary number of copies was ordered to be printed for circulation, was drawn up, said Mr. Clay, by your fellow-citizen, and an old acquaintance of mine, (honorable Felix Grundy.) And one of the pleasures which I promised myself, in making this visit to your beautiful town, was to meet and talk over matters with him. But, on my inquiry for him, I learned that he was in East Tennessee, making speeches in favor of the present administration! Ah, said I, at his old occupation, defending criminals! (The manner in which this was said, surpasses description. Those only who saw it, or who are acquainted with Mr. Clay's gesticulations and style of speaking, can imagine any thing approaching the reality.)

But there is this difference, said Mr. Clay, between my distinguished friend's present and past defence of criminals. He is now defending great criminals of state, not before a carefully packed jury, but before the free, enlightened, virtuous, and patriotic people; and, therefore, we may well hope that his present defence will not be attended with his hitherto usual success!

Mr. Clay referred to Mr. Van Buren's recommendation, in 1837, of a bankrupt law, bearing exclusively upon state banks, as an evidence of his regard for state rights, and mirrored forth the evils of such a law.

He reverted to the progress of the sub-treasury bill, through its several stages, and descanted upon the manner in which it was finally got first through the senate, and then the house, with great ability and eloquence; in which connection he gave a clear and succinct account of the manner, and for what cause, New Jersey was so disgracefully disfranchised

Mr. Clay said, the party in power profess to be democrats *par excellence!* Among all their usurpations, he knew of none more absurd than the usurpation of this name. He professed himself to be a true democrat. He learned his democracy in the school of '98 and '99. It was very different, he confessed, from the democracy taught now-a-days, in high places. It did not say, in the language of the motto upon the Bedford county banner, which he just read, 'the people expect too much from the government;' 'let the government take care of itself, and the people of themselves.' No! the democracy that he had learned was the reverse of this language of the present democratic president. But the new

democracy does not stop here. It asks for allegiance to the powers that be. The democracy of Jefferson asked a candidate for office if he was capable, and honest, and would support the constitution. But the new democracy asks very different questions. It asks, how many votes can you bring to the polls? What 's your influence? Are you boisterous partisans? It also holds out inducements or bribes, which Jefferson's democracy did not. It says, if you labor in my cause, and the people reject you, I will take care that your reward shall be certain. He instanced the appointment of Mr. Grundy, and then referred to the appointment of John M. Niles, as postmaster general, who, not four months ago, was rejected by the people by four thousand five hundred votes. To be thus beaten, was a sure passport to an executive office. By the bye, he said, the office conferred upon Mr. Niles was not a very enviable one, for he had to take a seat previously occupied by a creature, than whom a more despicable creeping reptile could not be named. His fellow-citizens, he presumed, would know to whom he alluded.

Mr. Clay here dwelt for some minutes upon the immoral tendency to which such a course of administration as he had been alluding to would lead. But he trusted it would be checked — that the great physician, the ballot-box, was near at hand, and that by November, the disease would be met by an effective and most salutary remedy. When before had such a state of things as now

fulfilled? What principle was carried out? what promise kept? what pledge redeemed? Is there an administration man in this vast assemblage that will answer, shouted the Kentucky orator, in the loudest tones of his musical voice?

Mr. Clay said, he had called the present a vast assemblage, and he would take that occasion to declare, that there were more people, and more banners there, than there were at the great Baltimore convention. And why are there so many people here, coming together from almost every state in the union?

Mr. Clay said, he claimed to be a democrat, in the true sense of the word — a democrat ready to stand by or die for his country. He referred to the great contest now going on, and asked that nothing should be done to the injury of our opponents. All, he said, were interested alike; all were on board the great ship of state; all were alike interested in the success of the voyage. But there were exceptions to the general rule; there were beings in the lead of the party who could not be hung too high — beings who set all the baser passions of men at work, and labor constantly and solely for no good. There was another class; the boisterous office-holders, the prætorian band, the palace slaves, he was about to say, of Martin Van Buren! But then, to call such a man a king over such a people as this great concourse! oh, he would not so insult them!

Mr. Clay, in conclusion, addressed the Tennesseans particularly. He reverted to the position of Tennessee and Kentucky. They stood side by side; their sons fought side by side at New Orleans. Kentuckians and Tennesseans now fight another and a different kind of battle. But they are fighting now, as then, a band of mercenaries, the cohorts of power. They are fighting a band of office-holders, who call general Harrison a coward, an imbecile, an old woman!

Yes, general Harrison is a coward! but he fought more battles than any other general during the last war, and never sustained a defeat! He is no statesman! and yet he has filled more civil offices of trust and importance than almost any other man in the union!

[A man in the crowd here cried out, 'tell us of Van Buren's battles!']

Ah! said Mr. Clay, I will have to use my colleague's language, and tell you of Mr. Van Buren's *three* great battles! He says that he fought general commerce, and conquered him; that he fought general currency, and conquered him; and that, with his Cuba allies, he fought the Seminoles, and got conquered!

Mr. Clay referred, with great good humor, to the seventeen thousand whig majority of Kentucky, and asked, if generous, chivalric Tennessee would not enter the lists of competition with her? He doubted not she would make a gallant effort to not only run up alongside, but to come out ahead of her!

# THE REPEAL OF THE SUB-TREASURY LAW.

IN THE SENATE OF THE UNITED STATES, DECEMBER 15, 1840.

[ At the session of congress after the election of general Harrison as president, his opponents being in a majority in both houses, Mr. Clay submitted the following resolution, to test the disposition of the Van Buren party to conform to the expression of public opinion, namely, by repealing the sub-treasury law.

Resolved, that the act entitled 'an act to provide for the collection, safe-keeping, transfer, and disbursement of the public revenues,' ought to be forthwith repealed, and that the committee on finance be instructed to report a bill accordingly In support of this resolution he addressed the senate as follows.]

Mr. Clay said it had never been his purpose, in offering this resolution, to invite or partake in an argument on the great measure to which the resolution related, nor was it his purpose now. He would as lief argue to the convicted criminal, when the rope was round his neck, and the cart was about to remove from under his body, to persuade him to escape from the gallows as to argue

instructed to repeal it. It might, indeed, be contended that the presidential election had decided this or that measure, when there might well be a dispute about it. Gentlemen on the other side had said, that such and such an election had decided this or that measure, one instance of which related to a bank of the United States, and about them all there might well have been controversy. But on one point there could not be a diversity of opinion; and that was, that this nation, by a tremendous majority, had decided against the sub-treasury measure. And, when the nation speaks, and wills, and commands, what was to be done? There was no necessity of the forms of sending to a committee for a slow process of inquiry; but there was a necessity of doing what the country required, and to reform what senators had been instructed to reform. The only question now was, who would act against the will of the nineteen states; and Mr. Clay thought gentlemen who professed to be guided by the popular sentiment could have no hesitation to comply with it now.

Sir, (said Mr. Clay,) I had hoped, for one, that the president of the United States, when he communicated his late message to congress, would announce the fact which I have stated, and would have conformed to it in his suggestions to congress. I would not, indeed, have asked the president to present himself before congress, and say to the nation and to congress, 'I have been wrong all this time, and I now retract my error.' Sir, it would have been unmanly to urge him to such a step, and I would not have required it of him. But we had a right to expect that the president would have said what was the fact on this subject, that the nation had decided against this measure, and he ought to have recommended that the will of the country should be obeyed. But least of all could we expect that he would recommend, as he did, certain improvements of this measure, and that senators should concur in amending a measure against which the nation had decided. And, even if they should persevere in such a course till March next, they know perfectly well that this measure cannot be continued after the new president shall commence his administration.

One word as to the effect of the repeal. What has been said of this measure? It is said to have been very successful, by the report of the secretary of the treasury. Sir, I would have been much better pleased if that document had gone into detail, and had told us what effects had been produced, and what changes had really taken place, arising out of this measure. All this he has omitted, and he has only told us that the measure has so far satisfied all their expectations, and that it has been most favorable in its operation. But what is its operation? Sir, I am far from the receivers-general, and wish I was much further; but what is its operation. Perhaps the honorable senator from New Hampshire, (Mr. Hubbard,) can tell, who, on all occasions, has stood

forth the ready protector and advocate of the secretary of the treasury, though I must say it was a most ungrateful return for the secretary of the treasury to beat him in the late senatorial election. Or, I should be glad to learn from the honorable chairman of the committee on finance, (Mr. Wright,) who is one of the instructed against the measure, and let him give it in detail, how the sub-treasury has acted, and how it is now working, how it is varying the financial and commercial concerns of this country. Sir, I can tell myself, though I am remote from its operations, and I understand there is not the slightest difference now from what was going on before the fourth of July last, in the operation of this system. Now, as then, the notes of all the specie-paying banks are received, and these notes pass into the hands of the receiver-general. The process is this: a merchant in New York who has to pay say four hundred dollars, gives two checks, of two hundred dollars each, but no specie. One of these checks is endorsed 'specie,' but the other has no such endorsement; and both these checks are carried to the bank and credited, not to the government, but to the receiver-general, on his own private account. That is the action of the sub-treasury. Both checks are cashed paper, convertible at the will of the holder into specie, and the one with the indorsement of specie is no more specie than the one without the indorsement. And such was, in fact, the usage before the fourth of July last. Prior to that, the paper of no bank not

ident, it is always pleasant to me when I have the honor to submit a proposition in a form so acceptable to the honorable senator from New York; and I am disposed to allow the largest possible accommodation, even on the point desired by the senator, of postponing this measure till the senate shall be more full. And, as I am a christian, or endeavor to be so, I will not return evil for good. Though I recollect, when this measure was on the verge of passing here, how the senator from New York would not allow a single day to the senator from Delaware, (Mr. Clayton,) though he would not then, though earnestly entreated to do so, delay the question even over night; though all this was denied with the concurrence of that senator, still I am for returning good for evil, and I am very happy that better days and more liberal sentiments are coming. I will concur in any reasonable postponement which the senator may desire.

But while up, I will notice a few remarks of the senator from New York. He says, this is a very convenient party now coming into power, because it is without avowed principles; a coon-skin, log-cabin party. And before I proceed further on this subject, let me ask, what sort of a party those must be, who have been driven out of power by a party whose residence is a log cabin, and whose covering is coon skins? Sir, there must be something wrong about it, or the defeated party would have never met so hard a fate from a party which they hold so much in contempt, and which is so contemptible, if the senator is correct. But does he in fact want to know my principles, or the principles of my friends, with respect to this sub-treasury measure? Have not we been battling with the whole country on our side against this identical measure? The senator tells us, that the popular voice was in favor of this measure, and that it was consequently carried in the popular branch. Sir, I hope he will relieve me of the necessity of looking into that New Jersey affair, and of discussing the manner in which that gallant state was stripped of her sacred rights, and her authority trampled under foot, in a manner degrading to a deliberative assembly, and disgraceful to the age in which we live. But I will not go into it. In the progress of the war gentlemen did gain a little, and we were subject to reverses prior to 1840. But who that regards the truth, and has been attentive to the progress of events, can rise in his place and deny that the elections of 1840 repealed the sub-treasury measure? They were avowedly against it; the object was to put it down, and to dispense with a measure which had disturbed the community, and deranged the affairs of the country for more than three long years. It is not at all like the cases alluded to by the senator under former elections. The election of 1832, for instance, was construed into an expression of public opinion against the bank of the United States. But we all know that general Jackson was then in favor of a bank of the

'nited States. He so said in his message, and he was then ıpported on the ground that he was friendly to the establishment f a bank of the United States. And I then denied, as I do now, ıat the inference of gentlemen from those elections was justly rawn. But now, whether the late election is favorable to a bank f the United States or to a league of banks, on one point, and ıat is as respects this measure, it is utterly impossible there can e two opinions here.

The honorable senator calls on us to say what other measure is ı be resorted to after that is destroyed; a bank of the United tates, or local banks? Sir, 'sufficient to the day is the evil ıereof.' We have nothing now but the sub-treasury to handle. 'hat is an obstacle in the way of any measure. Let us first emove that, and it will then be time for the senator from New 'ork to be heard in his inquiries.

But he says the party coming into power are without principle. 'ut does he not know that they are against the sub-treasury, and ı favor of some sound and safe regulation of the currency? 'hat they are for economy? That they are against the extravaance of the down-fallen administration? That retrenchment is ıeir aim? And that they are opposed to the late fearful usurpaons and abuses of executive power? Sir, the gentleman forgets ıat the election is over. I assure him, that it terminated Novemer second, 1840. He seems to think that he is addressing an

# DISTRIBUTION OF PROCEEDS OF THE PUBLIC LANDS.

## IN THE SENATE OF THE UNITED STATES, JANUARY 28, 1841.

[THE presidential election of 1840 having terminated in the complete and triumphant success of the whigs, and the overthrow of the administration of Mr. Van Buren; the party of the latter, retaining a majority, from former elections, in both houses of congress, endeavored to use their power for the benefit of their party, before surrendering their authority to the whigs on the coming fourth of March. They therefore introduced a new preëmption bill, by which the interests of the United States in the sales of public lands were to be sacrificed for the benefit of that class of settlers called *squatters*. It being proposed by Mr. Crittenden to amend the bill by providing for the distribution of the proceeds of the sales of the lands, Mr. Clay embraced the opportunity to deliver his sentiments on the subject which had before engaged his deliberations.]

WITH the measure of the distribution of the proceeds of the sales of the public lands among the states of the union, I have been so associated for the last eight or ten years, that, although it had not been my original purpose to say one word in respect to that measure at the present session of congress, the debate on my colleague's motion has taken such a wide range, that my silence might be construed into indifference, or an abandonment, on my part, of what I conscientiously believe to be one of the most important and beneficial measures ever submitted to the consideration of an American congress. I did not intend to move in the matter at this session, because of the extraordinary state of parties and of public affairs. The party against which the people of the United States had recently pronounced decisive judgment, was still in power, and had majorities in both houses of congress. It had been always opposed to the distribution bill. The new administration, to which a majority of the people of the United States had given its confidence, had not yet the possession of power, and, prior to the fourth of March next, can do nothing to fulfil the just expectations of the country. The treasury is exhausted, and in a wretched condition. I was aware, that its state would be urged as a plausible plea against present distribution; urged even by a party, prominent members of which had heretofore protested against any reliance whatever on the public lands as a source of revenue. Now, although I do not admit the right of congress to apply the proceeds of all the

ublic lands, consistently with the terms of the deeds of cession om Virginia and the other ceding states, to the purposes of ordi-ary revenue of government, yet congress being in the habit of aking such an application, I was willing to acquiesce in the ontinuation of the habit until, I hope at some early day, a suitable rovision can be made for the exchequer out of some more appro-riate and legitimate source than the public lands.

The distribution proposed by my colleague can be made, and, if o other senator does, I will propose to make it, to commence on e first day of January next, leaving the proceeds of the lands of e current year applicable to the uses of the treasury. This will void the financial objection, as I hoped, prior to that day, that ome permanent and adequate provision will be made to supply overnment with the necessary revenue. I shall, therefore, vote for e proposition with that qualification, since it has been introduced, though I had not intended to move it myself at this session.

I came to the present session of congress under the hope, that it ould dedicate itself earnestly to the urgent and necessary work of ich a repair of the shattered vessel of state as would put it in a ondition to perform the glorious voyage which it will begin on the urth of March next. I supposed, indeed, that all new and doubtful easures of policy would be avoided; but persuaded myself that spirit of manliness, of honor, and of patriotism, would prompt ose who yet linger in power and authority at least to provide the

important public business. There is some truth in the charge; and, if it be wrong, who ought to be held responsible for it? Clearly, those to whom the administration of the government has been intrusted, and who have majorities in both houses of congress. What has been the engrossing subject of this session? The permanent preëmption bill. Who introduced it, and why was it introduced? Not my friends, but the senator's. And it has been brought up when there is an operating preëmption law in existence, which has a long time to run. After the debate had been greatly protracted, and after one administration senator had notified the officers of the chamber, that they might get their lamps in order, and another had declared that they were ready to encamp on the ground until the bill was passed, why has the debate been permitted to continue weeks longer, without explanation, and to the surprise of every one on this side of the senate? Why has more than half the session been consumed with this single and unnecessary subject? I would ask that senator, who assumes the right to lecture us all, why he concurred in pressing on the senate this uncalled-for measure? Yes, sir, my worst fears are about to be realized. Nothing will be done for the country during this session. I did hope that, if the party in power would not, in some degree, atone for past misdeeds during the remnant of their power, they would at least give the new administration a fair trial, and forbear all denunciation or condemnation of it in advance. But has this been their equitable course? Before the new president had entered upon the duties of his office, gentlemen who have themselves contributed to bring the country to the brink of ruin, (they will pardon me for saying it, but the truth must be spoken,) these very gentlemen are decrying beforehand those measures of the coming administration which are indispensable, and which they must know to be indispensable, to restore the public happiness and prosperity! The honorable senator in my eye, (Mr. Wright,) said, in so many words, that he meant to condemn this measure of distribution *in advance*. (Mr. Wright shook his head.)

I have taken down the senator's words, and have them here on my notes.

[*Mr. Wright.* If the honorable senator will permit me, I will tell him what I said. I said that the course of his friends had forced the consideration of this measure on us *in advance*.]

Forced it on *them* in advance! How? Projects to squander the public domain are brought forward by friends of the administration, in the form of a graduation bill, by which fifty millions in value of a portion of it would have been suddenly annihilated; preëmption bills; cessions to a few of the states of the whole within their limits. Under these circumstances, my colleague presents a conservative measure, and proposes, in lieu of one of these wasteful

projects, by way of amendment, an equitable distribution among all the states of the avails of the public lands. With what propriety, then, can it be said, that we, who are acting solely on the defensive, have *forced* the measure upon our opponents? Let them withdraw their bill, and I will answer for it that my colleague will withdraw his amendment, and will not, at this session, press any measure of distribution. No, sir, no. The policy of gentlemen on the other side, the clearly defined and distinctly marked policy is, to condemn in advance those measures which their own sagacity enables them to perceive that the new administration, faithful to their own principles and to the best interests of the country, must bring forward to build up once more the public prosperity. How, otherwise, are we to account for opposition, from leading friends of the administration, to the imposition of duties on the merest luxuries in the world? It is absolutely necessary to increase the public revenue. That is incontestable. It can only be done by the imposition of duties on the protected articles, or on the free articles, including those of luxury; for no one, I believe, in the senate, dreams of laying a direct tax. Well; if duties were proposed on the protected articles, the proposition would instantly be denounced as reviving a high tariff. And when they are proposed on silks and wines, senators on the other side raise their voices in opposition to duties, on these articles of incontestable luxury. These, moreover, are objects of consumption chiefly with the rich, and they, of

much care and parade introduced into the United States, perhaps under the vain hope that it would remain here, in less than eighteen months was reëxported to France in the very boxes in which it was brought, to liquidate our commercial debt. Yet we must not supply the indispensable wants of the treasury by taxing any of the articles of this disadvantageous commerce! And some gentlemen, assuming not merely the guardianship of the poor, but of the south also, (with about as much fidelity in the one case as in the other,) object to the imposition of duties upon these luxuries, because they might affect somewhat the trade with France in a southern staple. But duties upon any foreign imports may affect, in some small degree, our exports. If the objection, therefore, be sustained, we must forbear to lay any imposts, and rely, as some gentlemen are understood to desire, on direct taxes. But to this neither the country nor congress will ever consent. We have hitherto resorted mainly, and I have no doubt always will resort, to our foreign imports for revenue. And can any objects be selected, with more propriety, than those which enter so largely into the consumption of the opulent? It is of more consequence to the community, in the consideration of duties, who consumes the articles charged with them, and consequently, who pays them, than how the dutied articles are purchased abroad. The south is the last place from which an objection should come on the score of disproportionate consumption. I venture to assert that there is more champagne wine consumed in the Astor House, in the city of New York, in one year, than in any state south of the Potomac. [A laugh.] Our total amount of imports last year was one hundred and four millions of dollars. Deducting the free articles, the amount of goods subject to duty was probably not more than between fifty and sixty millions. Now, if we are to adhere to the compromise of the tariff, which it is my wish to be able to do, but concerning which I have remarked lately a portentous silence on the part of some of its professing friends on the other side, it will be recollected, that the maximum of any duty to be imposed is twenty per centum, after June, 1842. It would not be safe to assume our imports in future of articles that would remain for consumption, and not be reëxported, higher than one hundred millions, twenty per centum on which would yield a gross revenue annually of twenty millions But I think that we ought not to estimate our imports at more than ninety millions; for, besides other causes that must tend to diminish them, some ten or twelve millions of our exports will be applied annually to the payment of interest or principal of our state debts held abroad, and will not return in the form of imports. Twenty per centum upon ninety millions would yield a gross revenue of eighteen millions only. Thus it is manifest, that there must be additional duties. And I think it quite certain, that the amount of necessary revenue cannot be raised without going up to the limit

of the compromise upon all articles whatever, which, by its terms, are liable to duty. And these additional duties ought to be laid now, forthwith, clearly before the close of the session. The revenue is now deficient, compelling the administration to resort to the questionable and dangerous use of treasury notes. Of this deficient revenue, there will go off five millions during the next session of congress, according to the estimate of the secretary of the treasury, two and a half millions on the thirty-first of December, 1841, and two and a half millions more on the thirtieth June, 1842. This reduction takes place under that provision of the compromise act, by which one half the excess of all duties beyond twenty per centum is repealed on the last day of this year, and the other moiety of that excess on the last day of June, 1842. Now, if congress does not provide for this great deficiency in the revenue prior to the close of the present session, how is it possible to provide for it in season at the session which begins on the first Monday in December next? No great change in the customs ought to be made without reasonable notice to the merchant, to enable him to adapt his operations to the change. How is it possible to give this notice, if nothing is done until the next regular meeting of congress? Waiving all notice to the merchant, and adverting merely to the habits of congress, is it not manifest, that no revenue bill can be passed by the last day of December, at a session commencing on the first Monday of that month? How, then, can

Harrison's administration. If gentlemen are for peace and harmony, we are prepared to meet them in a spirit of peace and harmony, to unite with them in healing the wounds and building up the prosperity of the country. But if they are for war, as it seems they are, I say, 'lay on, Macduff.' (Sensation, and a general murmuring sound throughout the chamber and galleries.)

One argument of the honorable senator, who has just taken his seat, (Mr. Wright,) I wish to detach from the residue of his speech, that I may, at once, put it to sleep for ever. With all his well known ability, and without meaning to be disrespectful, I may add, with all his characteristic ingenuity and subtlety, he has urged, that if you distribute the proceeds of the public lands, you arrogate to yourselves the power of taxing the people to raise money for distribution among the states; that there is no difference between revenue proceeding from the public lands and revenue from the customs; and that there is nothing in the constitution which allows you to lay duties on imports for the purpose of making up a deficiency produced by distributing the proceeds of the public lands.

I deny the position, utterly deny it, and I will refute it from the express language of the constitution. From the first, I have been of those who protested against the existence of any power in this government to tax the people for the purpose of a subsequent distribution of the money among the states. I still protest against it. There exists no such power. We invoke the aid of no such power in maintenance of the principle of distribution, as applied to the proceeds of the sales of the public domain. But if such a power clearly existed, there would not be the slightest ground for the apprehension of its exercise. The imposition of taxes is always an unpleasant, sometimes a painful duty. What government will ever voluntarily incur the odium and consent to lay taxes, and become a tax-gatherer, not to have the satisfaction of expending the money itself, but to distribute it among other governments, to be expended by them? But to the constitution. Let us see whether the taxing power and the land power are, as the argument of the senator assumes, identical and the same. What is the language of the constitution? 'The congress shall have power to lay and collect taxes, duties, imposts, and excises, *to pay the debts and provide for the common defence and general welfare of the United States;* but all duties, imposts, and excises shall be uniform throughout the United States.' Here is ample power to impose taxes; but the *object* for which the money is to be raised is specified. There is no authority whatever conveyed to raise money by taxation, for the purpose of subsequent distribution among the states, unless the phrase 'general welfare' includes such a power. The doctrine, once held by a party upon whose principles the senator and his friends now act, in relation to the executive department, that those phrases included a grant of power, has been long since exploded

and abandoned. They are now, by common consent, understood to indicate a purpose, and not to vest a power. The clause of the constitution, fairly construed and understood, means that the taxing power is to be exerted to raise money to enable congress to pay the debts and provide for the common defence and general welfare. And it is to provide for the general welfare, in any exigency, by a fair exercise of the powers granted in the constitution. The republican party of 1798, in whose school I was brought up, and to whose rules of interpreting the constitution I have ever adhered, maintained that this was a limited government; that it had no powers but granted powers, or powers necessary and proper to carry into effect the granted powers; and that, in any given instance of the exercise of power, it was necessary to show the specific grant of it, or that the proposed measure was necessary and proper to carry into effect a specifically granted power or powers.

There is, then, I repeat, no power or authority in the general government to lay and collect taxes in order to distribute the proceeds among the states. Such a financial project, if any administration were mad enough to adopt it, would be a flagrant usurpation. But how stands the case as to the land power? There is not, in the whole constitution, a single line or word that indicates an intention that the proceeds of the public lands should come into the public treasury, to be used as a portion of the revenue of the government. On the contrary, the unlimited grant of power

buildings, magazines, dock-yards, and whatever else belonged to the government. And so it would. There is not a doubt of it; but when will congress ever perpetrate such a folly as to distribute this national property. It annually distributes arms, according to a fixed rule, among the states, with great propriety. Are they not property belonging to the United States? To whose authority is the use of them assigned? To that of the states. And we may safely conclude, that when it is expedient to distribute, congress will make distribution, and when it is best to retain any national property, under the common authority, it will remain subject to it. I challenge the senator, or any other person, to show any limitation on the power of congress to dispose of the territory or property of the United States or their proceeds, but that which may be found in the terms of the deeds of cession, or in a sound and just discretion. Come on; who can show it? Has it not been shown, that the taxing power, by a specification of the objects for which it is to be exercised, excludes all idea of raising money for the purpose of distribution? And that the land power places distribution on a totally different footing? That no part of the proceeds of the public domain compose necessarily, or perhaps properly, a portion of the public revenue? What is the language of the constitution? That to pay the debts, provide for the common defence and general welfare of the United States, you may take the proceeds of the public lands? No, no. It says, for these ends, in other words, for the conduct of the government of the union, you shall have power, unlimited as to amount and objects, to lay taxes. That is what it says; and if you go to the constitution, this is its answer. You have no right to go for power any where else.

Hereafter, I shall endeavor further to show, that, by adopting the distribution principle, you do not exercise or affect the taxing power; that you will be setting no dangerous precedent, as is alleged; and that you will, in fact, only pay an honest debt to the states, too long withheld from them, and of which some of them now stand in the greatest need.

In the opposition to distribution, we find associated together the friends of preëmption, the friends of graduation, and the friends of a cession of the whole of the public lands to a few of the states. Instead of reproaching us with a want of constitutional power to make an equitable and just distribution of the proceeds of the sales of the public lands among all the states, they would do well to point to the constitutional authority, or to the page in the code of justice, by which their projects are to be maintained. But it is not my purpose now to dwell on these matters. My present object is with the argument of the senator from New York, and his friends, founded on financial considerations.

All at once these gentlemen seem to be deeply interested in the revenue derivable from the public lands. Listen to them now, and

you would suppose that heretofore they had always been, and hereafter would continue to be, decidedly and warmly in favor of carefully husbanding the public domain, and obtaining from it the greatest practicable amount of revenue, for the exclusive use of the general government. You would imagine that none of them had ever espoused or sanctioned any scheme for wasting or squandering the public lands; that they regarded them as a sacred and inviolable fund, to be preserved for the benefit of posterity, as well as this generation.

It is my intention now to unmask these gentlemen, and to show that their real system for the administration of the public lands embraces no object of revenue, either in the general government or the states; that their purpose is otherwise to dispose of them; that the fever for revenue is an intermittent, which appears only when a bill to distribute the proceeds equally among all the states is pending; and that, as soon as that bill is got rid of, gentlemen relapse into their old projects of throwing away the public lands, and denouncing all objects of revenue from the public lands as unwise, illiberal, and unjust towards the new states. I will make all this good by the most incontrovertible testimony. I will go to the very highest authority in the dominant party, during the last twelve years, and from that I will come down to the honorable senator from New York, and other members of the party. (I should not say come down; it is certainly not descending from the

although among my colleagues of the committee, there might be those who were my superiors in other respects, owing to my local position, it was supposed that I possessed a more familiar knowledge with the public lands than any of them, when, in truth, mine was not considerable. There was another more weighty motive with the majority of the senate, for devolving the business on me. The zeal, and, perhaps, too great partiality of my friends, had, about that time, presented my name for a high office. And it was supposed that no measure, for permanently settling the question of the public lands, could emanate from me, that would not affect injuriously my popularity, either with the new or the old states, or with both. I felt the embarrassment of the position in which I was placed; but I resolved not to sink under it. I pulled off my coat, and went hard to work. I manufactured the measure for distributing equitably, in just proportions, the proceeds of the public lands among the several states. When reported from the committee, its reception in the senate, in congress, and in the country, was triumphant. I had every reason to be satisfied with the result of my labors, and my political opponents had abundant cause for bitter regrets at their indiscretion, in wantonly throwing the subject on me. The bill passed the senate, but was not acted upon in the house at that session. At the succeeding session, it passed both houses. In spite of all those party connections, which are, perhaps, the strongest ties that bind the human race, Jackson men, breaking loose from party thraldom, united with anti-Jackson men, and voted the bill by overwhelming majorities, in both houses. If it had been returned by the president, it would have passed both houses by constitutional majorities, his veto notwithstanding. But it was a measure suggested, although not voluntarily, by an individual who shared no part in the president's counsels, or his affections; and although he had himself, in his annual message, recommended a similar measure, he did not hesitate to change his ground, in order to thwart my views. He knew, as I have always believed and have understood, that if he returned the bill, as by the constitution he was bound to do, it would become a law, by the sanction of the requisite majorities in the two houses. He resolved, therefore, upon an arbitrary course, and to defeat, by an irregular and unprecedented proceeding, what he could not prevent by reason, and the legitimate action of the constitution. He resolved not to return the bill, and did not return it to congress, but pocketed it!

I proceed now to the documentary proof which I promised. In his annual message of December fourth, 1832, president Jackson says:

'Previously to the formation of our present constitution, it was recommended by congress that a portion of the waste lands owned by the states, should be ceded to the United States, for the purposes of general harmony, and as a fund to meet the

expenses of the war. The recommendation was adopted, and, at different periods of time, the states of Massachusetts, New York, Virginia, North and South Carolina, and Georgia, granted their vacant soil for the uses for which they had been asked. As the lands may now be considered as relieved from this pledge, the object for which they were ceded having been accomplished, it is in the discretion of congress to dispose of them in such way as best to conduce to the quiet, harmony, and general interest of the American people,' and so forth. 'It seems to me to be our true policy, that the public lands shall cease, as soon as practicable, to be a source of revenue,' and so forth.

Thus, in December, 1832, president Jackson was of opinion, first, that the public lands were released from the pledge of them to the expenses of the revolutionary war; secondly, that it was in the power of congress to dispose of them according to its discretion, in such way as best to conduce to the quiet, harmony, and general interest of the American people; and, thirdly, that the public lands should cease, as soon as practicable, to be a source of revenue.

So far from concurring in the argument now insisted upon by his friends, for the sole purpose of defeating distribution, that the public lands should be regarded and cherished as a source of revenue, he was clearly of opinion that they should altogether cease to be considered as a source of revenue.

The measure of distribution was reported by me from the committee on manufactures, in April, 1832, and what was done with it? The same majority of the senate which had so strangely discovered a connexion between American manufactures and

and preserving the public lands to supply them? No such thing. No such recommendation. On the contrary, we are deliberately told to avert our eyes from the land-offices, and to fix them exclusively on the custom-houses, as the true sources of federal revenue! Give away the public lands, was the doctrine of that report. Give it to the cultivator, and tell him to keep his money! And the party of the senator from New York, from that day to this, have adhered to that doctrine, except at occasional short periods, when the revenue fit has come upon them, and they have found it convenient, in order to defeat distribution, to profess great solicitude for the interests of the revenue.

Some of them, indeed, are too frank to make any such profession. I should be glad to know from the senator from Alabama if he adheres to the sentiments of his report of 1832, and still thinks that the custom-houses, and not the land-offices, are the true sources of federal revenue. (Mr. King here nodded assent.)

I expected it. This reavowal is honorable to the candor and independence of the senator. He does not go, then, with the revenue arguers. He does not go with the senator from New York, who speaks strongly in favor of the revenue from the public lands, and votes for every proposition to throw away the public lands.

During the whole progress of the bill of distribution through the senate, as far as their sentiments were to be inferred from their votes, or were to be known by the positive declarations of some of them, the party dominant then and now acted in conformity with the doctrines contained in the report of their organ, (Mr. King.) Nevertheless, the bill passed both houses of congress by decisive majorities.

Smothered, as already stated, by president Jackson, he did not return it to the senate, until the fourth of December, 1833. With it came his memorable veto message — one of the most singular omnibusses that was ever beheld — a strange vehicle, that seemed to challenge wonder and admiration, on account of the multitude of hands evidently employed in its construction, the impress of some of them smeared and soiled, as if they were fresh from the kitchen. Hear how president Jackson lays down the law in this message.

'On the whole, I adhere to the opinion expressed by me in my annual message of 1832, that it is our true policy that the public lands shall cease, as soon as practicable, to be a source of revenue, except for the payment of those general charges which grow out of the acquisition of the lands, their survey, and sale.' 'I do not doubt that it is the real interest of each and all the states in the union, and particularly of the new states, that the price of these lands shall be reduced and graduated; and that, after they have been offered for a certain number of years, the refuse, remaining unsold, shall be abandoned to the states, and the machinery of our land system entirely withdrawn.'

These are the conclusions of the head of that party which has been dominant in this country for twelve years past. I say twelve,

for the last four have been but as a codicil to the will, evincing a mere continuation of the same policy, purposes, and designs, with that which preceded it. During that long and dismal period, we all know too well, that the commands of no major-general were ever executed with more implicit obedience, than were the orders of president Jackson, or, if you please, the public policy as indicated by him. Now, in this message, he repeats, that the public lands should cease to be a source of revenue, with a slight limitation as to the reimbursement of the charges of their administration, and adds, that their price should be reduced and graduated, and what he terms the refuse land, should be ceded to the states within which it is situated. By the bye, these refuse lands, according to statements which I have recently seen from the land office, have been the source of nearly one half — upwards of forty millions of dollars — of all the receipts from the public lands, and that, too, principally since the date of that veto message!

It is perfectly manifest, that the consideration of revenue, now so earnestly pressed upon us by the friends of general Jackson, was no object with him in the administration of the public lands, and that it was his policy, by reduction of the price, by graduation, by preëmptions, and by ultimate cessions, to get rid of them as soon as practicable. We have seen that the committee on the public lands and his party coincided with him. Of this, further

from the new states frequently express their determination to wrest from this government the whole of the public lands, denounce its alleged illiberality, and point exultingly to the strength which the next census is to bring to their policy. It was but the other day we heard the senator from Arkansas, (Mr. Sevier,) express some of these sentiments. What were we told by that senator? 'We will have the public lands. We must have them, and we will *take* them in a few years.'

[*Mr. Sevier.* So we will.]

Hear him! Hear him! He repeats it. Utters it in the ears of the revenue-pleading senator, (Mr. Wright,) on my left. And yet he will vote against distribution.

I will come now to a document of more recent origin. Here it is — the work, nominally, of the senator from Michigan, (Mr. Norvell,) but I take it, from the internal evidence it bears, to be the production of the senator from South Carolina, over the way, (Mr. Calhoun.) This report, in favor of cession, proposes to cede, to the states within which the public lands are situated, one third, retaining, nominally, two thirds to the union. Now, if this precedent of cession be once established, it is manifest that it will be applied to all new states, as they are hereafter successively admitted into the union. We begin with ceding one third; we shall end in granting the whole.

[Mr. Calhoun asked Mr. Clay to read the portions of the report to which he alluded.]

I should be very glad to accommodate the senator, but I should have to read the whole of *his* report, and I am too much indisposed and exhausted for that. But I will read one or two paragraphs.

'It belongs to the nature of things, that the old and new states should take different views, have different feelings, and favor a different course of policy, in reference to the lands within their limits. It is natural for the one to regard them chiefly as a source of revenue, and to estimate them according to the amount of income annually derived from them; while the other as naturally regards them, almost exclusively, as a portion of their domain, and as the foundation of their population, wealth, power, and importance. They have more emphatically the feelings of ownership, accompanied by the impression that they ought to have the principal control, and the greater share of benefits derived from them.' 'To sum up the whole in a few words: of all subjects of legislation, land is that which more emphatically requires a local superintendence and administration; and, therefore, ought preëminently to belong, under our system, to state legislation, to which this bill proposes to subject it exclusively, in the new states, as it has always been in the old.'

It must be acknowledged, that the new states will find some good reading in this report. What is the reasoning? That it is natural for the old states to regard the public lands as a source of revenue, and as natural for the new states to take a different view of the matter; ergo, let us give the lands to the new states, making them, of course, cease any longer to be a source of revenue. It is

liscovered too, that land is a subject which emphatically requires a local superintendence and administration. It therefore proposes o subject it exclusively to the new states, as (according to the assertion of the report,) it always has been in the old. The public ands of the United States, theoretically, have been subject to the oint authority of the two classes of states, in congress assembled, but, practically, have been more under the control of the members rom the new states, than those from the old. I do not think that he history of the administration of public domain in this country, sustains the assertion that the states have exhibited more competency and wisdom for the management of it, than the general government.

I stated that I would come down, (I should have said, go up,) rom the late president of the United States, to the senator from New York. Let us see what sort of notions he had on this matter of revenue from the public lands, when acting in his character of chairman of the committee of finance, during this very session, on another bill. There has been, as you are aware, sir, before the senate, at times, during the last twelve or fifteen years, a proposition for the reduction of the price of the public lands, under the imposing guise of 'graduation.' A bill, according to custom, has been introduced during the present session, for that object. To give it éclat, and as a matter of form and dignity, it was referred to the committee of finance, of which the honorable senator from New

do with this bill, which takes off fifty cents from the very moderate price of one dollar and a quarter per acre, at which the public lands are now sold? The bill was in the hands of the able chairman of the committee of finance some time. He examined it, no doubt, carefully, deliberated upon it attentively and anxiously. What report did he make upon it? If uninformed upon the subject, Mr. President, after witnessing, during these two days, the patriotic solicitude of the senator in respect to the revenue derivable from the public lands, you would surely conclude that he had made a decisive, if not indignant report, against the wanton waste of the public lands by the graduation bill. I am sorry to say that he made no such report. Neither did he make an elaborate report to prove that, by taking off fifty cents per acre on one hundred millions of acres, reducing two fifths of their entire value, the revenue would be increased. Oh, no; that was a work he was not prepared to commit, even to his logic. He did not attempt to prove that. But what did he do? Why, simply presented a verbal compendious report, recommending that the bill do pass! [A general laugh.] And yet that senator can rise here, in the light of day, in the face of this senate, in the face of his country, and in the presence of his God, and argue for retaining and husbanding the public lands, to raise revenue from them!

But let us follow these revenue gentlemen a little further. By one of the strangest phenomena in legislation and logic that was ever witnessed, these very senators, who are so utterly opposed to the distribution of the proceeds of the public lands among all the states, because it is distribution, are themselves for all other sorts of distribution — for cessions, for preëmptions, for grants to the new states to aid them in education and improvement, and even for distribution of the proceeds of the public lands among particular states. They are for distribution in all conceivable forms and shapes, so long as the lands are to be gotten rid of, to particular persons or particular states. But when an equal, general, broad, and just distribution is proposed, embracing *all* the states, they are electrified and horror-struck. You may distribute, and distribute among states, too, as long as you please, and as much as you please, but not among *all* the states.

And here, sir, allow me to examine more minutely, the project of cession, brought forward as the rival of the plan of distribution.

There are upwards of one billion of acres of public land belonging to the United States, situated within and without the limits of the states and territories, stretching from the Atlantic ocean and the Gulf of Mexico to the Pacific; they have been ceded by seven of the old thirteen states to the United States, or acquired by treaties with foreign powers. The senator from South Carolina, (Mr. Calhoun,) proposes by his bill to cede one hundred and sixty million of acres of this land to the nine states wherein they

e, granting to those states thirty-five per centum, and reserving to he United States sixty-five per centum of the proceeds of those ands.

Now what I wish to say in the first place, is, that, if you commence by applying the principle of cession to the nine land states ow in the union, you must extend it to other new states, as they hall be, hereafter, from time to time, admitted into the union, until he whole public land is exhausted. You will have to make imilar cessions to Wisconsin, to Iowa, to Florida, (in two states, erhaps, at least in one,) and so to every new state, as it shall be rganized and received? How could you refuse? When other tates to the north and to the west of Missouri, Arkansas, Iowa, nd Wisconsin, to the very shores of the Pacific, shall be admitted nto the confederacy, will you not be bound, by all the principles f equality and justice, to make them respectively similar cessions f the public land, situated within their limits, to those which you vill have made to the nine states? Thus your present grant, lthough extending nominally to but one hundred and sixty million f acres, virtually, and by inevitable consequence, embraces the vhole of the public domain. And you bestow a gratuity of thirtyive per centum of the proceeds of this vast national property upon portion of the states, to the exclusion and to the prejudice of the evolutionary states, by whose valor a large part of it was achieved. Will the senator state whence he derives the power to do this? Will

official data or calculation, but fixed by mere arbitrary discretion. I should be exceedingly amused to see the senator from South Carolina rising in his place, and maintaining before the senate an authority in congress to cede the public lands to particular states, on the terms proposed, and at the same time denying its power to distribute the proceeds equally and equitably among all the states.

Now, in the second place, although there is a nominal reservation of sixty-five per centum of the proceeds to the United States, in the sequel, I venture to predict, we should part with the whole. You vest in the nine states the title. They are to sell the land and grant titles to the purchasers. Now what security have you for the faithful collection and payment into the common treasury of the reserved sixty-five per centum? In what medium would the payment be made? Can there be a doubt that there would be delinquency, collisions, ultimate surrender of the whole debt? It is proposed, indeed, to retain a sort of mortgage upon the lands, in the possession of purchasers from the state, to secure the payment to the United States of their sixty-five per centum. But how could you enforce such a mortgage? Could you expel from their homes some, perhaps one hundred thousand settlers, under state authority, because the state, possibly without any fault of theirs, had neglected to pay over to the United States the sixty-five per centum? The remedy of expulsion would be far worse than the relinquishment of the debt, and you would relinquish it.

There is no novelty in this idea of cession to the new states. The form of it is somewhat varied, by the proposal of the senator to divide the proceeds between the new states and the United States, but it is still substantially the same thing; a present cession of thirty-five per centum, and an ultimate cession of the whole! When the subject of the public lands was before the committee on manufactures, it considered the scheme of cession among the other various projects then afloat. The report made in April, 1832, presents the views entertained by the committee on that topic; and, although I am not in the habit of quoting from my own productions, I trust the senate will excuse me on this occasion for availing myself of what was then said, as it will at least enable me to economize my breath and strength. I ask some friend to read the following passages: [which were accordingly read by another senator.]

'Whether the question of a transfer of the public lands be considered in a limited or more extensive view of it which has been stated, it is one of the highest importance, and demanding the most deliberate consideration. From the statements founded on official reports, made in the preceding part of this report, it has been seen, that the quantity of unsold and unappropriated lands lying within the limits of the new states and territories, is three hundred and forty million eight hundred and seventy-one thousand seven hundred and fifty-three acres, and the quantity beyond those limits, is seven hundred and fifty millions, presenting an aggregate of one billion ninety million eight hundred and seventy-one thousand seven hundred and fifty-three acres. It is difficult to conceive a question of greater magnitude than that of relin

uishing this immense amount of national property. Estimating its value according o the minimum price, it presents the enormous sum of one billion three hundred and ixty-three million five hundred and eighty-nine thousand six hundred and ninety-ne dollars. If it be said, that a large portion of it will never command that price, it s to be observed, on the other hand, that, as fresh lands are brought into market and xposed to sale at public auction, many of them sell at prices exceeding one dollar nd a quarter per acre. Supposing the public lands to be worth, on the average, one alf of the minimum price, they would still present the immense sum of six hundred nd eighty-one million seven hundred and ninety-four thousand eight hundred and orty-five dollars. The least favorable view which can be taken of them is, that f considering them a capital, yielding, at present, an income of three millions of ollars annually. Assuming the ordinary rate of six per centum interest per annum s the standard, to ascertain the amount of that capital, it would be fifty millions of ollars. But this income has been progressively increasing. The average increase uring the six last years has been at the rate of twenty-three per centum per annum upposing it to continue in the same ratio, at the end of a little more than four years e income would be double, and make the capital one hundred millions of dollars. Whilst the population of the United States increases only three per centum per annum, e increase of the demand for the public lands is at the rate of twenty-three per centum, rnishing another evidence that the progress of emigration and the activity of sales ave not been checked by the price demanded by government.

"In whatever light, therefore, this great subject is viewed, the transfer of the public nds from the whole people of the United States, for whose benefit they are now eld, to the people inhabiting the new states, must be regarded as the most momen-us measure ever presented to the consideration of congress. If such a measure ould find any justification, it must arise out of some radical and incurable defect in e construction of the general government properly to administer the public domain. ut the existence of any such defect is contradicted by the most successful experience. o branch of the public service has evinced more system, uniformity, and wisdom, given more general satisfaction, than that of the administration of the public nds.

"If the proposed cession to the new states were to be made at a fair price, such as e general government could obtain from individual purchasers under the present ystem, there would be no motive for it, unless the new states are more competent

between the debtor states a common feeling and a common interest, distinct from the rest of the union. These states are all in the western and southwestern quarter of the union, remotest from the centre of federal power. The debt would be felt as a load from which they would constantly be desirous to relieve themselves; and it would operate as a strong temptation, weakening, if not dangerous, to the existing confederacy. The committee have the most animating hopes and the greatest confidence in the strength, and power, and durability of our happy union; and the attachment and warm affection of every member of the confederacy cannot be doubted; but we have authority, higher than human, for the instruction, that it is wise to avoid all temptation.

'In the state of Illinois, with a population at the last census of one hundred and fifty-seven thousand four hundred and forty-five, there are thirty-one million three hundred and ninety-five thousand six hundred and sixty-nine acres of public land, including that part on which the Indian title remains to be extinguished. If we suppose it to be worth only half the minimum price, it would amount to nineteen million six hundred and twenty-two thousand four hundred and eighty dollars. How would that state be able to pay such an enormous debt? How could it pay even the annual interest upon it?

'Supposing the debtor states to fail to comply with their engagements, in what mode could they be enforced by the general government? In treaties between independent nations, the ultimate remedy is well known. The apprehension of an appeal to that remedy, seconding the sense of justice and the regard for character, which prevail among christian and civilized nations, constitutes, generally, adequate security for the performance of national compacts. But this last remedy would be totally inadmissible in case of a delinquency on the part of the debtor states. The relations between the general government and the members of the confederacy are happily those of peace, friendship, and fraternity, and exclude all idea of force and war. Could the judiciary coerce the debtor states? On what could their process operate? Could the property of innocent citizens, residing within the limits of those states, be justly seized by the general government, and held responsible for debts contracted by the states themselves in their sovereign character? If a mortgage upon the lands ceded, were retained, that mortgage would prevent or retard subsequent sales by the states; and if individuals bought, subject to the incumbrance, a parental government could never resort to the painful measure of disturbing them in their possessions.

'Delinquency, on the part of the debtor states, would be inevitable, and there would be no effectual remedy for the delinquency. They would come again and again to congress, soliciting time and indulgence, until, finding the weight of the debt intolerable, congress, wearied by reiterated applications for relief, would finally resolve to spunge the debt; or, if congress attempted to enforce its payment, another and a worse alternative would be embraced.

'If the proposed cession be made for a price merely nominal, it would be contrary to the express conditions of the original cessions from primitive states to congress, and contrary to the obligations which the general government stands under to the whole people of these United States, arising out of the fact, that the acquisitions of Louisiana and Florida, and from Georgia, were obtained at a great expense, borne from the common treasure, and incurred for the common benefit. Such a gratuitous cession could not be made without a positive violation of a solemn trust, and without manifest injustice to the old states. And its inequality among the new states would be as marked as its injustice to the old would be indefensible. Thus Missouri, with a population of one hundred and forty thousand four hundred and fifty-five, would acquire thirty-eight million two hundred and ninety-two thousand one hundred and fifty-one acres; and the state of Ohio, with a population of nine hundred and thirty-five thousand eight hundred and eighty-four, would obtain only five million five hundred and eighty-six thousand eight hundred and thirty-four acres. Supposing a division of the land among the citizens of those two states respectively; the citizen of Ohio would obtain less than six acres for his share, and the citizen of Missouri upwards of two hundred and seventy-two acres as his proportion.

'Upon full and thorough consideration, the committee have come to the conclusion, that it is inexpedient either to reduce the price of the public lands, or to cede them to the new states. They believe, on the contrary, that sound policy coincides with the duty which has devolved on the general government to the whole of the states, and the whole of the people of the union, and enjoins the preservation of the existing system, as having been tried and approved, after a long and triumphant experience. But, in consequence of the extraordinary financial prosperity which the United

States enjoys, the question merits examination, whether, whilst the general government steadily retains the control of this great national resource in its own hands, after the payment of the public debt, the proceeds of the sales of the public lands, no longer needed to meet the ordinary expenses of government, may not be beneficially appropriated to some other objects for a limited time.'

The senator from New York has adverted, for another purpose, to the twenty-eight millions of surplus divided a few years ago among the states. He has said, truly, that it arose from the public lands. Was not that, in effect, distribution? Was it not so understood at the time? Was it not voted for, by senators, as practical distribution? The senator from North Carolina, (Mr. Mangum,) has stated that he did. I did. Other senators did; and no one, not the boldest, will have the temerity to rise here and propose to require or compel the states to refund that money. If, in form, it was a deposit with the states, in fact, and in truth, it was distribution. So it was then regarded. So it will ever remain.

Let us now see, Mr. President, how this plan of cession will operate among the new states themselves. And I appeal more especially to the senators from Ohio. That state has about a million and a half of inhabitants. The United States have (as will probably be shown when the returns are published of the late census*) a population of about fifteen millions. Ohio, then, has within her limits one tenth part of the population of the United States. Now, let us see what sort of a bargain the proposed

derstood, in the same way as the senator's from Ohio, I shall be very glad of it.

But I was going to show what sort of a bargain for Ohio her two senators, by their votes, appeared to be assenting to. There are eight hundred thousand acres of public land remaining in Ohio, after being culled for near half a century, thirty-five per centum of the proceeds of which are to be assigned to that state, by the plan of cession. For this trifling consideration, she is to surrender her interest in one hundred and sixty millions of acres; in other words, she is to give sixteen millions, (that being her tenth,) for the small interest secured to her in the eight hundred thousand acres. If, as I believe and have contended, the principle of cession, being once established, would be finally extended to the whole public domain, then Ohio would give one hundred millions of acres of land, (that being her tenth part of the whole of the public lands,) for the comparatively contemptible consideration that she would acquire in the eight hundred thousand acres. A capital bargain this, to which I supposed the two senators had assented, by which, in behalf of their state, they exchanged one hundred millions of acres of land against eight hundred thousand! [A laugh.]

I do not think that the senator's explanation mends the matter much. According to that, he did not vote for cession because he liked cession. No! that is very bad; but, bad as it may be, it is not so great an evil as distribution, and he preferred it to distribution. Let us see what Ohio would get by distribution. Assuming that the public lands will yield only five millions of dollars annually, her proportion, being one tenth, would be half a million of dollars. But I entertain no doubt that, under proper management, in a few years the public lands will produce a much larger sum, perhaps ten or fifteen millions of dollars; so that the honorable senator prefers giving away for a song the interests of his state, presently, in one hundred and sixty millions of acres, and eventually in a billion, to receiving annually, in perpetuity, half a million of dollars, with an encouraging prospect of a large augmentation of that sum. That is the notion which the two senators from Ohio entertain of her interest! Go home, Messieurs Senators from Ohio, and tell your constituents of your votes. Tell them of your preference of a cession of all their interest in the public lands, with the exception of that inconsiderable portion remaining in Ohio, to the reception of Ohio's fair distributive share of the proceeds of all the public lands of the United States, now and hereafter. I do not seek to interfere in the delicate relation between senators and their constituents; but I think I know something of the feelings and views of my neighbors, the people of Ohio. I have recently read an exposition of her true interests and views, in the message of her enlightened governor, directly contrary to those which appear to be

entertained by her two senators; and I am greatly deceived if a large majority of the people of that state do not coincide with their governor.

The unequal operation of the plan of cession among the nine new states, has been, perhaps, sufficiently exposed by others. The states with the smallest population get the most land. Thus Arkansas, with only about one fifteenth part of the population of Ohio, will receive upwards of twenty-eight times as much land as Ohio. The scheme proceeds upon the idea of reversing the maxim of the greatest good to the greatest number, and of substituting the greatest good to the smallest number.

There can be every species of partial distribution of public land or its proceeds, but an honest, impartial, straight-forward distribution among all the states. Can the senator from New York, with his profound knowledge of the constitution, tell me on what constitutional authority it is that lands are granted to the Indians beyond the Mississippi?

[Mr. Wright said, that there was no property acquired, and therefore no constitutional obligation applied.]

And that is the amount of the senator's information of our Indian relations! Why, sir, we send them across the Mississippi, and put them upon our lands, from which all Indian title had been

to it yesterday. On one collateral point I desire to supply an omission, as to the trade between this country and France. I stated the fact that, according to the returns of imports and exports, there existed an unfavorable balance against the United States, amounting, exclusively of what is reëxported, to seventeen millions of dollars; but I omitted another important fact, namely, that, by the laws of France, there is imposed on the raw material imported into that kingdom a duty of twenty francs on every hundred kilogrammes, equal to about two cents per pound on American cotton, at the present market price. Now what is the fact as to the comparative rate of duties in the two countries? France imposes on the raw product, (which is the mere commencement of value in articles which, when wrought and finally touched. will be worth two or three hundred fold,) a duty of nearly twenty-five per centum; while we admit, free of duty, or with nominal duties, costly luxuries, the product of French industry and taste, wholly unsusceptible of any additional value by any exertion of American skill or industry. In any thing I have said on this occasion, nothing is further from my intention than to utter one word unfriendly to France. On the contrary, it has been always my desire to see our trade with France increased and extended upon terms of reciprocal benefit. With that view, I was in favor of an arrangement in the tariff of 1832, by which silks imported into the United States from beyond the cape of Good Hope, were charged with a duty of ten per centum higher than those brought from France, and countries this side the cape, especially to encourage the commerce with France.

While speaking of France, allow me to make an observation, although it has no immediate or legitimate connexion with any thing before the senate. It is to embrace the opportunity of expressing my deep regret at a sentiment attributed by the public journals, to a highly distinguished and estimable countryman of ours, in another part of the capitol, which implied a doubt as to the validity of the title of Louis Philippe to the throne of France, inasmuch as it was neither acquired by conquest nor descent, and raising a question as to his being the lawful monarch of the French people. It appears to me, that, after the memorable revolution of July, in which our illustrious and lamented friend, Lafayette, bore a part so eminent and effectual, and the subsequent hearty acquiescence of all France, in the establishment of the Orleans branch of the house of Bourbon upon the throne, the present king has as good a title to his crown as any of the other sovereigns of Europe have to theirs, and quite as good as any which force, or the mere circumstance of birth, could confer. And if an individual so humble and at such a distance as I am, might be allowed to express an opinion on the public concerns of another country and another hemisphere, I would add, that no chief magistrate of any nation, amidst difficulties, public and personal, the most complicated and appalling,

could have governed with more ability, wisdom, and firmness, than have been displayed by Louis Philippe. All christendom owes him an acknowledgment for his recent successful efforts to prevent a war which would have been disgraceful to christian Europe — a war arising from the inordinate pretensions of an upstart Mahomedan pacha, a rebel against his lawful sovereign, and a usurper of his rights — a war which, if once lighted up, must have involved all Europe, and have led to consequences which it is impossible to foresee.

I return to the subject immediately before us.

In tracing the history of that portion of our public domain which was acquired by the war of the revolution, we should always recollect the danger to the peace and harmony among the members of the confederacy with which it was pregnant. It prevented for a long time, the ratification of the articles of confederation, by all the states, some of them refusing their assent until a just and equitable settlement was made of the question of the crown lands. The argument they urged as to these lands, in a waste and unappropriated state, was, that they had been conquered by the common valor, the common exertions, and the common sacrifices of all the states; that they ought therefore to be the common property of all the states, and that it would be manifestly wrong and unjust that the states within whose limits these crown lands happened to lie, should exclusively enjoy the benefit of them. Virginia, within

able to show, in the progress of my argument, that, from the moment of the adoption of the federal constitution, the proceeds of the public lands ought to have been divided among the states.

But that the payment of the revolutionary debt was one of the objects of the cession, is a matter of incontestable history. We should have an imperfect idea of the intentions of the parties, if we confined our attention to the mere language of the deeds. In order to ascertain their views, we must examine contemporaneous acts, resolutions, and proceedings. One of these resolutions, clearly manifesting the purpo- I have stated, has probably escaped the notice of the senator from New York. It was a resolution of the old congress, adopted in April, 1783, preceding the final cession from Virginia, which was in March, 1784. There had been an attempt to make the cession as early as 1781, but, owing to the conditions with which it was embarrassed, and other difficulties, the cession was not consummated until March, 1784. The resolution I refer to, bears a date prior to that of the cession, and must be taken with it, as indicative of the motives which probably operated on Virginia to make, and the confederation to accept, that memorable grant. I will read it.

'Resolved, that as a further mean, as well of hastening the extinguishment of the debts, as of establishing the harmony of the United States, it be recommended to the states which have passed no acts towards complying with the resolutions of congress of the sixth of September and tenth of October, 1780, relative to the cession of territorial claims, to make the liberal cessions therein recommended, and to the states which may have passed acts complying with the said resolutions in part only, to revise and complete such compliance.'

That was one of the great objects of the cession. Seven of the old thirteen states had waste crown lands within their limits; the other six had none. These complained that what ought to be regarded as property common to them all, would accrue exclusively to the seven states, by the operation of the articles of confederation; and, therefore, for the double purpose of extinguishing the revolutionary debt, and of establishing harmony among the states of the union, the cession of those lands to the United States was recommended by congress.

And here let us pause for a moment, and contemplate the proposition of the senator from South Carolina, and its possible consequences. We have seen that the possession by seven states of these public lands, won by the valor of the whole thirteen, was cause of so much dissatisfaction to the other six as to have occasioned a serious impediment to the formation of the confederacy; and we have seen that, to remove all jealousy and disquietude on that account, in conformity with the recommendation of congress, the seven states, Virginia taking the lead, animated by a noble spirit of justice and patriotism, ceded the waste lands to the United States, for the benefit of all the states. Now what is the measure

f the senator from South Carolina? It is in effect to restore the iscordant and menacing state of things, which existed in 1783, rior to any cession from the states. It is worse than that. For it roposes that seventeen states shall give up immediately or eventu-lly all their interest in the public lands, lying in nine states, to hose nine states. Now if the seven states had refused to cede at ll, they could at least have asserted that they fought Great Britain or these lands, as hard as the six. They would have had, there-ore, the apparent right of conquest, although it was a common onquest. But the senator's proposition is, to cede these public nds from the states which fought for them in the revolutionary war, to states that neither fought for them nor had existence during hat war. If the apprehension of an appropriation of these lands, o the exclusive advantage of the seven states, was nigh preventing he establishment of the union, can it be supposed that its security nd harmony will be unaffected by a transfer of them from seven-een to nine states? But the senator's proposition goes yet further. t has been shown that it will establish a precedent, which must ead to a cession from the United States of all the public domain, whether won by the sword or acquired by treaties with foreign owers, to new states, as they shall be admitted into the union.

In the second volume of the laws of the United States, will be ound the act, known as the funding act, which passed in the year 790. By the last section of that act, the public lands are pledged,

of the revenue argument, but when the proposition is up to make an equal and just distribution of the proceeds. When the favorable, but, as I regard them, wild and squandering projects of gentlemen, are under consideration, they are profoundly silent as to that argument.

I come now to an examination of the terms on which the cession was made by the states, as contained in the deeds of cession. And I shall take that from Virginia, because it was, in some measure, the model deed, and because it conveyed by far the most important part of the public lands, acquired from the ceding states. I will first dispose of a preliminary difficulty, raised by the senator from New York. That senator imagined a case, and then combated it, with great force. The case he supposed was, that the senator from Massachusetts and I had maintained, that, under that deed, there was a reversion to the states; and much of his argument was directed to prove that there is no reversion, but that, if there were, it could only be to the ceding states. Now, neither the senator from Massachusetts, nor I, attempted to erect any such windmill, as the senator from New York has imagined; and he might have spared himself the heavy blows, which, like another famed hero, not less valorous than himself, he dealt upon it. What I really maintain, and have always maintained, is, that, according to the terms themselves, of the deed of cession, although there is conveyed a common property, to be held for the common benefit, there is, nevertheless, an assignment of a separate use. The ceded land, I admit, is to remain a common fund for all the states, to be administered by a common authority; but the proceeds, or profits, were to be appropriated to the states in severalty, according to a certain prescribed rule. I contend this is manifestly true, from the words of the deed. What are they? 'That all the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered a common fund, for the use and benefit of such of the United States as have become, or shall become members of the confederation, or federal alliance of the said states, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever.'

The territory conveyed was to be regarded as an inviolable fund, for the use and benefit of such states as were admitted, or might be admitted into the union, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure. It was to be faithfully and bona fide administered for that sole purpose, and for no other purpose whatever.

Where, then, is the authority for all those wild, extravagant, and unjust projects, by which, instead of administration of the ceded

territory for all the states, and all the people of the union, it is to be granted to particular states, wasted in schemes of graduation and preëmption, for the benefit of the trespasser, the alien, and the speculator?

The senator from New York, pressed by the argument as to the application of the fund to the separate use of the states, deducible from the phrases in the deed, 'Virginia inclusive,' said, that they were necessary, because, without them, Virginia would have been entitled to no part of the ceded lands. No? Were they not ceded to the United States? was she not one of those states? and did not the grant to them include her? Why, then, were the words inserted? Can any other purpose be imagined, than that of securing to Virginia her separate or 'respective' proportion? The whole paragraph, cautiously and carefully composed, clearly demonstrates, that, although the fund was to be common, the title common, the administration common, the use and benefit were to be separate among the several states, in the defined proportions.

The grant was for the benefit of the states, 'according to their usual respective proportions in the common charge and expenditure.' Bear in mind the date of the deed; it was in 1784—before the adoption of the present constitution, and whilst the articles of confederation were in force. What, according to them, was the mode of assessing the quotas of the different states towards

for the payment of my assessed quota of the expenses of the general government;' can it be doubted that such a demand would have been legitimate, and perfectly compatible with the deed of cession? Even under our present system, you will recollect, sir, that, during the last war, any state was allowed to assume the payment of its share of the direct tax, and raise it, according to its own pleasure or convenience, from its own people, instead of the general government's collecting of it.

From the period of the adoption of the present constitution of the United States, the mode of raising revenue, for the expenses of the general government, has been changed. Instead of acting upon the states, and through them upon the people of the several states, in the form of assessed quotas or contributions, the general government now acts directly upon the people themselves, in the form of taxes, duties, or excises. Now, as the chief source of revenue raised by this government is from foreign imports, and as the consumer pays the duty, it is entirely impracticable to ascertain how much of the common charge and general expenditure is contributed by any one state to the union.

By the deed of cession, a great and a sacred trust was created. The general government was the trustee, and the states were the *cestui que* trust. According to the trust, the measure of benefit accruing to each state from the ceded lands, was to be the measure of burden which it bore in the general charge and expenditure. But, by the substitution of a new rule of raising revenue to that which was in contemplation at the time of the execution of the deed of cession, it has become impossible to adjust the exact proportion of burden and benefit with each other. The measure of burden is lost, although the subject remains, which was to be apportioned according to that measure. Who can now ascertain, whether any one of the states has received, or is receiving a benefit from the ceded lands, proportionate to its burden in the general government? Who can know that we are not daily violating the rule of apportionment prescribed by the deed of cession? To me, it appears clear, that, either from the epoch of the establishment of the present constitution, or certainly from that of the payment of the revolutionary debt, the proceeds of the public lands being no longer applied by the general government, according to that rule, they ought to have been transferred to the states, upon some equitable principle of division, conforming as nearly as possible to the spirit of the cessions. The trustee not being able, by the change of government, to execute the trust agreeably to the terms of the trust, ought to have done, and ought yet to do, that which a chancellor would decree, if he had jurisdiction of the case — make a division of the proceeds among the states, upon some rule, approximating as nearly as practicable to that of the trust. And what rule can so well fulfil this condition, as that which was introduced in the bill which I

presented to the senate, and which is contained in my colleague's amendment? That rule is founded on federal numbers, which are made up of all the inhabitants of the United States other than the slaves, and three fifths of them. The south, surely, should be the last section to object to a distribution founded on that rule. And yet, if I rightly understood one of the dark allusions of the senator from South Carolina, (Mr. Calhoun,) he has attempted to excite the jealousy of the north on that very ground. Be that as it may, I can conceive of no rule more equitable than that compound one, and I think that will be the judgment of all parts of the country, the objection of that senator notwithstanding. Although slaves are, in a limited proportion, one of the elements that enter into the rule, it will be recollected that they are both consumers and the objects of taxation.

It has been argued that since the fund was to be a common one, and its administration was to be by the general government, the fund ought to be used also by that government to the exclusion of the states separately. But that is a *non sequitur*. It may be a common fund, a common title, and a common or single administration; but is there any thing, in all that, incompatible with a periodical distribution of the profits of the fund among the parties for whose benefit the trust was created? What is the ordinary case of tenants in common? There the estate is common, the title is common, the defence against all attacks is common;

ment directly, or through the state governments as agencies, is all for the happiness and prosperity, the honor and the glory, of one and the same people.

The subject is susceptible of other illustrations, of which I will add one or two. Here is a fountain of water held in common by several neighbors living around it. It is a perennial fountain; deep, pure, copious, and salubrious. Does it cease to be common because some equal division is made by which the members of each adjacent family dip their vessels into it, and take out as much as they want? A tract of land is held in common by the inhabitants of a neighboring village. Does it cease to be a common property because each villager uses it for his particular beasts? A river is the common highroad of navigation to conterminous powers or states. Does it cease to be common because on its bosom are borne vessels bearing the stripes and the stars, or the British cross? These, and other examples which might be given, prove that the argument, on which so much reliance has been placed, is not well founded, that, because the public domain is held for the common benefit of the states, there can be no other just application of its proceeds than through the direct expenditures of the general government.

I might have avoided most of this consumption of time by following the bad example of quoting from my own productions; and I ask the senate to excuse one or two citations from the report I made in 1834, in answer to the veto message of president Jackson, as they present a condensed view of the argument which I have been urging. Speaking of the cession from Virginia, the report says:

'This deed created a trust in the United States which they are not at liberty to violate. But the deed does not require that the fund should be disbursed in the payment of the expenses of the general government. It makes no such provision in express terms, nor is such a duty on the part of the trustee fairly deducible from the language of the deed. On the contrary, the language of the deed seems to contemplate a separate use and enjoyment of the fund by the states individually, rather than a preservation of it for common expenditure. The fund itself is to be a common fund for the use and benefit of such of the United States as have become, or shall become members of the confederation or federal alliance, Virginia inclusive. The grant is not for the benefit of the confederation, but for that of the several states which compose the confederation. The fund is to be under the management of the confederation collectively, and is so far a common fund; but it is to be managed for the use and benefit of the states individually, and is so far a separate fund under a joint management. Whilst there was a heavy debt existing, created by the war of the revolution, and by a subsequent war, there was a fitness in applying the proceeds of a common fund to the discharge of a common debt, which reconciled all; but the debt being now discharged, and the general government no longer standing in need of the fund, there is evident propriety in a division of it among those for whose use and benefit it was originally designed, and whose wants require it. And the committee cannot conceive how this appropriation of it, upon principles of equality and justice among the several states, can be regarded as contrary to either the letter or spirit of the deed.'

The senator from New York, assuming that the whole debt of the revolution has not yet been paid by the proceeds of the public

lands, insists that we should continue to retain the avails of them until a reimbursement shall have been effected of all that has been applied to that object. But the public lands were never set apart or relied upon as the exclusive resource for the payment of the revolutionary debt. To give confidence to public creditors, and credit to the government, they were pledged to that object, along with other means applicable to its discharge. The debt is paid, and the pledge of the public lands has performed its office. And who paid what the lands did not? Was it not the people of the United States? — those very people to whose use, under the guardianship of their states, it is now proposed to dedicate the proceeds of the public lands? If the money had been paid by a foreign government, the proceeds of the public lands, in honor and good faith, would have been bound to reimburse it. But our revolutionary debt, if not wholly paid by the public lands, was otherwise paid out of the pockets of the people who own the lands; and if money has been drawn from their pockets for a purpose to which these lands were destined, it creates an additional obligation upon congress to replace the amount so abstracted, by distributing the proceeds among the states for the benefit and the reimbursement of the people.

But the senator from New York has exhibited a most formidable account against the public domain, tending to show, if it be correct, that what has been heretofore regarded, at home and

conversion to christianity, friendly and commercial intercourse these are the causes of the chief expenditure on their account, and they are quite distinct from the fact of our possessing the public domain. When every acre of that domain has gone from you, the Indian tribes, if not in the mean time extinct, may yet remain, imploring you, for charity's sake, to assist them, and to share with them those blessings, of which, by the weakness of their nature, or the cruelty of your policy, they have been stripped. Why, especially, should the public lands be chargeable with that large portion of the eighty odd millions of dollars, arising from the removal of the Indians from the east to the west side of the Mississippi? They protested against it. They entreated you to allow them to remain at the homes and by the sides of the graves of their ancestors; but your stern and rigorous policy would not allow you to listen to their supplication. The public domain, instead of being justly chargeable with the expense of their removal, is entitled to a large credit for the vast territorial districts beyond the Mississippi, which it furnished for the settlement of the emigrant Indians.

I feel that I have not strength to go through all the items of the senator's account, nor need I. The deduction of this single item will leave a net balance in favor of the public lands of between sixty and seventy millions of dollars.

What, after all, is the senator's mode of stating the account with the public lands? Has he taken any other than a mere counting-house view of them? Has he exhibited any thing more than any sub-accountant or clerk might make out in any of the departments, as probably it was prepared, cut and dry, to the senator's hands? Are there no higher or more statesman-like views to be taken of the public lands, and of the acquisitions of Louisiana and Florida, than the account of dollars and cents which the senator has presented? I have said that the senator, by the double process of erroneous insertion, and unjust suppression of items, has shaped an account to suit his argument, which presents any thing but a full and fair statement of the case. And is it not so? Louisiana cost fifteen millions of dollars. And if you had the power of selling, how many hundred millions of dollars would you now ask for the states of Louisiana, Missouri, and Arkansas — people, land, and all? Is the sovereignty which you acquired of the two provinces of Louisiana and Florida nothing? Are the public buildings, and works, the fortifications, cannon, and other arms, independent of the public lands, nothing? Is the navigation of the great father of waters, which you secured from the head to the mouth, on both sides of the river, by the purchase of Louisiana, to the total exclusion of all foreign powers, not worthy of being taken into the senator's estimate of the advantages of the acquisition? Who, at all acquainted with the history and geography of this

continent, does not know that the Mississippi could not have remained in the hands, and its navigation continued subject to the control, of a foreign power, without imminent danger to the stability of the union? Is the cost of the public domain undeserving of any credit on account of the vast sums which, during the greater part of this century, you have been receiving into the public treasury from the custom-houses of New Orleans and Mobile? Or on account of the augmentation of the revenue of the government, from the consumption of dutiable articles by the population within the boundaries of the two former provinces? The national benefits and advantages accruing from their possession have been so various and immense, that it would be impossible to make any mere pecuniary estimate of them. In any aspect of the subject, the senator's petty items of Indian annuities must appear contemptible in comparison with these splendid national acquisitions.

But the public lands are redeemed. They have long been redeemed. President Jackson announced, more than eight years ago, an incontestable truth, when he stated, that they might be considered as relieved from the pledge which had been made of them, the object having been accomplished for which they were ceded, and that it was in the discretion of congress to dispose of them in such way as best to conduce to the quiet, harmony, and general interest of the American people. That which congress has the power to do, by an express grant of authority in the constitu-

to do as much good and as little harm as possible, within the scope of their respective powers. They should also each take into view the defects in the powers, or defects in the administration of the powers, of the other, and endeavor to supply them, as far as its legitimate authority extends, and the wants or necessities of the people require. For, if distress, adversity, and ruin come upon our constituents from any quarter, should they not have our active exertions to relieve them, as well as all our sympathies and our deepest regrets? It would be but a poor consolation to the general government, if such were the fact, that this unhappy state of things was produced by the measures and operation of the state governments, and not by its own. And if the general government, by a seasonable and legitimate exercise of its authority, could relieve the people, and would not relieve them, the reproaches due to it would be quite as great as if that government itself, and not the state governments, had brought these distresses upon the people.

The powers of taxation possessed by the general government are unlimited. The most fruitful and the least burdensome modes of taxation are confided to this government exclusive of the states. The power of laying duties on foreign imports is entirely monopolized by the federal government. The states have only the power of direct or internal taxation. They have none to impose duties on imports, not even luxuries; we have. And what is their condition at this moment? Some of them are greatly in debt, at a loss even to raise means to pay the interest upon their bonds. These debts were contracted under the joint encouragement of the recommendation of this government and prosperous times, in the prosecution of the laudable object of internal improvements. They may have pushed, in some instances, their schemes too far; but it was in a good cause, and it is easy to make reproaches when things turn out ill.

And here let me say, that, looking to the patriotic object of these state debts, and the circumstances under which they were contracted, I saw with astonished and indignant feelings a resolution submitted to the senate, at the last session, declaring that the general government would not assume the payment of them. A more wicked, malignant, Danton-like proposition was never offered to the consideration of any deliberative assembly. It was a *negative* proposition, not a negative of any affirmative resolution presented to the senate; for no such affirmative resolution was offered by any one, nor do I believe was ever thought or dreamed of by any one. When, where, by whom, was the extravagant idea ever entertained, of an assumption of the state debts by the general government? There was not a solitary voice raised in favor of such a measure in this senate. Would it not have been time enough to have denounced assumption when it was seriously proposed? Yet, at

moment when the states were greatly embarrassed, when their redit was sinking, at this critical moment, was a measure brought orward, unnecessarily, wantonly, and gratuitously, made the subject f an elaborate report, and exciting a protracted debate, the inevitale effect of all which must have been to create abroad distrust in he ability and good faith of the debtor states. Can it be doubted, hat a serious injury was inflicted upon them by this unprecedented roceeding? Nothing is more delicate than credit or character. Their credit cannot fail to have suffered in the only place where apital could be obtained, and where at that very time some of the gents of the states were negotiating with foreign bankers. About hat period, one of the senators of this body had in person gone broad for the purpose of obtaining advances of money on Illinois tock.

The senator from New York said, that the European capitalists ad fixed the value of the state bonds of this country at fifty per entum; and therefore it was a matter of no consequence what might e said about the credit of the states here. But the senator is nistaken, or I have been entirely misinformed. I understand that ome bankers have limited their advances upon the amount of state onds, prior to their actual sale, to fifty per centum, in like manner s commission merchants will advance on the goods consigned to hem, prior to their sale. But in such an operation it is manifestly or the interest of the states, as well as the bankers, that the bonds

If such a feeling does really exist, I trust it will find no sympathy with the people of this country, as it can have none in the breast of any honest man. When the honorable senator from Massachusetts, (Mr. Webster,) the other day uttered, in such thrilling language, the sentiment, that honor and probity bound the states to the faithful payment of all their debts, and that they would do it, I felt my bosom swelling with patriotic pride; pride, on account of the just and manly sentiment itself; and pride, on account of the beautiful and eloquent language, in which that noble sentiment was clothed. Dishonor American credit! Dishonor the American name! Dishonor the whole country! Why, sir, what is national character, national credit, national honor, national glory, but the aggregate of the character, the credit, the honor, the glory, of the parts of the nation? Can the parts be dishonored, and the whole remain unsullied? Or can the whole be blemished, and the parts stand pure and untainted? Can a younger sister be disgraced, without bringing blushes and shame upon the whole family? Can our young sister, Illinois, (I mention her only for illustration, but with all feelings and sentiments of fraternal regard,) can she degrade her character as a state, without bringing reproach and obloquy upon all of us? What has made England, our country's glorious parent — although she has taught us the duty of eternal watchfulness, to repel aggression, and maintain our rights against even her — what has made England the wonder of the world? What has raised her to such preëminence in wealth, power, empire, and greatness, at once the awe and the admiration of nations? Undoubtedly, among the prominent causes, have been the preservation of her credit, the maintenance of her honor, and the scrupulous fidelity with which she has fulfilled her pecuniary engagements, foreign as well as domestic. An opposite example of a disregard of national faith and character presents itself in the pages of ancient history. Every schoolboy is familiar with the phrase, 'Punic faith,' which at Rome became a by-word and a reproach against Carthage, in consequence of her notorious violations of her public engagements. The stigma has been transmitted down to the present time, and will remain for ever uneffaced. Who would not lament that a similar stigma should be affixed to any member of our confederacy? If there be any one so thoroughly imbued with party spirit, so destitute of honor and morality, so regardless of just feelings of national dignity and character, as to desire to see any of the states of this glorious union dishonored, by violating their engagements to foreigners, and refusing to pay their just debts, I repel and repudiate him and his sentiments as unworthy of the American name, as sentiments dishonest in themselves, and neither entertained nor approved by the people of the United States.

Let us not be misunderstood, or our feelings and opinions be perverted. What is it that we ask? That this government shall

assume the debts of the states? Oh! no, no. The debts of Pennsylvania, for example? (which is, I believe, the most indebted of all the states.) No, no; far from it. But, seeing that this government has the power, and, as I think, is under a duty, to distribute the proceeds of the public lands; and that it has the power, which the states have not, to lay duties on foreign luxuries; we propose to make that distribution, pay *our* debt to the states, and save the states, to that extent at least, from the necessity of resorting to direct taxation, the most onerous of all modes of levying money upon the people. We propose to supply the deficiency produced from the withdrawal of the land fund by duties on luxuries, which the wealthy only will pay, and so far save the states from the necessity of burdening the poor. We propose, that, by a just exercise of incontestable powers possessed by this government, we shall go to the succor of all the states, and, by a fair distribution of the proceeds of the public lands among them, avert, as far as that may avert, the ruin and dishonor with which some of them are menaced. We propose, in short, such an administration of the powers of this government as shall protect and relieve our common constituents from the embarrassments to which they may be exposed from the defects in the powers or in the administration of the state governments.

Let us look a little more minutely at consequences. The distributive share of the state of Illinois in the land proceeds would be

rich, and rendering inevitable the taxation of the poor — that poor in whose behalf we hear, from the other side of the chamber, professions of such deep sympathy, interest, and devotion! In what attitude do gentlemen place themselves who oppose this measure — gentlemen who taunt us as the aristocracy, as the friends of the banks, and so forth — gentlemen who claim to be the peculiar guardians of the democracy? How do they treat the poor? We have seen, at former sessions, a measure warmly espoused, and finally carried by them, which they represented would reduce the wages of labor. At this session, a tax, which would be borne exclusively by the rich, encounters their opposition. And now we have proposed another mode of benefiting the poor, by distribution of the land proceeds, to prevent their being borne down and oppressed by direct taxation; and this, too, is opposed from the same quarter! These gentlemen will not consent to lay a tax on the luxuries of the affluent, and, by their votes, insist upon leaving the states under the necessity of imposing direct taxes on the farmer, the laboring man, the poor, and all the while set up to be the exclusive friends of the poor! [A general laugh.] Really, sir, the best friends appear to be the worst enemies of the poor, and their greatest enemies their best friends.

The gentlemen opposed to us have frightened themselves, and have sought to alarm others, by imaginary dangers to spring from this measure of distribution. Corruption, it seems, is to be the order of the day! If I did not misunderstand the senator from South Carolina, he apprised us of the precise sum — one million of dollars — which was adequate to the corruption of his own state. He knows best about that; but I should be sorry to think that fifty millions of dollars could corrupt my state. What may be the condition of South Carolina at this time I know not; there is so much fog enveloping the dominant party, that it is difficult to discern her present latitude and longitude. What she was in her better days — in the days of her Rutledges, Pinckneys, Sumpters, Lowndeses, Cheveses — we all well know, and I will not inflict pain on the senator by dwelling on it. It is not for me to vindicate her from a charge so degrading and humiliating. She has another senator here, far more able and eloquent than I am to defend her. Certainly I do not believe, and should be most unwilling to think, that her senator had made a correct estimate of her moral power.

It has been, indeed, said, that our whole country is corrupt; that the results of recent elections were brought about by fraudulent means; and that a foreign influence has produced the great political revolution which has just taken place. I pronounce that charge a gross, atrocious, treasonable libel on the people of this country, on the institutions of this country, and on liberty itself. I do not attribute this calumny to any member of this body. I hope there

s none who would give it the slightest countenance. But I do charge it upon some of the newspapers in the support of the other party. And it is remarkable, that the very press which originates and propagates this foul calumny of foreign influence has indicated the right of unnaturalized foreigners to mingle, at the polls, in our elections; and maintained the expediency of their owning portions of the soil of our country, before they have renounced their allegiance to foreign sovereigns.

I will not consume the time of the senate in dwelling long upon the idle and ridiculous story about the correspondence between the London bankers and some Missouri bankers — a correspondence which was kept safely until after the presidential election, in the custody of the directors of what is vaunted as a genuine locofoco bank in that state, when it was dragged out by a resolution of the legislature, authorizing the sending for persons and papers. It was then blazed forth as conclusive and damning evidence of the existence of a foreign influence in our presidential election. And what did it all amount to? These British bankers are really strange fellows. They are foolish enough to look to the safety of their money advanced to foreigners! If they see a man going to ruin, they will not lend him; and if they see a nation pursuing the same road, they are so unreasonable as to decline vesting their funds in its bonds. If they find war threatened, they will speculate on the consequences; and they will indulge in conjectures about the future condition of a country in given contingencies! Many strange

refused to trust them any longer, and foreign bankers will not trust them either, they utter a whining cry that their recent signal defeat has been the work of foreign influence! [Loud laughter in the galleries.]

Democratic party! They have not the slightest pretension to this denomination. In the school of 1798, in which I was taught, and to which I have ever faithfully adhered, we were instructed to be watchful and jealous of executive power, enjoined to practice economy in the public disbursements, and urged to rally around the people, and not attach ourselves to the presidential car. This was Jefferson's democracy. But the modern democrats, who have assumed the name, have reversed all these wholesome maxims, and have given to democracy a totally different version. They have run it down, as they have run down, or at least endangered, state rights, the right of instruction — admirable in their proper sphere — and all other rights, by perversion and extravagance. But, thank God, true democracy and true democrats have not been run down. Thousands of those who have been deceived and deluded by false colors, will now eagerly return to their ancient faith, and unite, under Harrison's banner, with their old and genuine friends and principles, as they were held at the epoch of 1798. We shall, I trust, be all once more united as a fraternal band, ready to defend liberty against all dangers that may threaten it at home, and the country against all that shall menace it from abroad.

But to return from this digression to the patriotic apprehension, entertained by senators, of corruption, if the proceeds of the public lands should be distributed among the states. If, in the hands of the general government, the land fund does not lead to corruption, why should it in the hands of the state governments? Is there less danger from the fund if it remain undivided and concentrated, than if it be distributed? Are the state governments more prone to corruption than the federal government? Are they more wasteful and extravagant in the expenditure of the money of the people? I think that if we are to consult purity and economy, we shall find fresh motives for distribution.

Mr. President, two plans of disposing of the vast public domain belonging to the United States, have been, from time to time, submitted to the consideration of congress and the public. According to one of them, it should not be regarded as a source of revenue, either to the general or to the state government. That, I have, I think, clearly demonstrated, although the supporters of that plan do press the argument of revenue whenever the rival plan is brought forward. They contend that the general government, being unfit, or less competent than the state governments, to manage the public lands, it ought to hasten to get rid of them, either by reduction of the price, by donation, by preëmptions, or by cessions to certain states, or by all these methods together.

Now, sir, it is manifest that the public lands cannot be all settled n a century or centuries to come. The progress of their settlement s indicated by the growth of the population of the United States. There have not been, on an average, five millions of acres per nnum sold, during the last half century. Larger quantities will be robably hereafter, although not immediately, annually sold. Now, when we recollect that we have at least a billion of acres to dispose f, some idea may be entertained, judging from the past, of the robable length of time before the whole is sold. Prior to their ale and settlement, the unoccupied portion of the public domain nust remain either in the hands of the general government, or in he hands of the state governments, or pass into the hands of peculators. In the hands of the general government, if that overnment shall perform its duty, we know that the public lands will be distributed on liberal, equal, and moderate terms. The worst fate that can befall them, would be for them to be acquired y speculators. The emigrant and settler would always prefer urchasing from government, at fixed and known rates, rather than rom the speculator, at unknown rates, fixed by his cupidity or aprice. But, if they are transferred from the general government, he best of them will be engrossed by speculators. That is the nevitable tendency of reduction of the price by graduation, and of ession to the states within which they lie.

The rival plan is, for the general government to retain the public

of the rest. It stands on a just, broad, and liberal foundation. It is a measure applicable not only to the states now in being, but to the territories, as states shall hereafter be formed out of them, and to all new states, as they shall rise, tier behind tier, to the Pacific ocean. It is a system operating upon a space almost boundless, and adapted to all future time. It was a noble spirit of harmony and union that prompted the revolutionary states originally to cede to the United States. How admirably does this measure conform to that spirit, and tend to the perpetuity of our glorious union! The imagination can hardly conceive one fraught with more harmony and union among the states. If to the other ties that bind us together as one people be superadded the powerful interest springing out of a just administration of our exhaustless public domain, by which, for a long succession of ages, in seasons of peace, the states will enjoy the benefit of the great and growing revenue which it produces, and in periods of war that revenue will be applied to the prosecution of the war, we shall be for ever linked together with the strength of adamantine chains. No section, no state, would ever be mad enough to break off from the union, and deprive itself of the inestimable advantages which it secures. Although thirty or forty more new states should be admitted into this union, this measure would cement them all fast together. The honorable senator from Missouri, near me, (Mr. Linn,) is very anxious to have a settlement formed at the mouth of the Oregon, and he will probably be gratified at no very distant day. Then will be seen members of congress from the Pacific states scaling the Rocky mountains, passing through the country of the grizzly bear, descending the turbid Missouri, entering the father of rivers, ascending the beautiful Ohio, and coming to this capitol, to take their seats in its spacious and magnificent halls. Proud of the commission they bear, and happy to find themselves here in council with friends, and brothers, and countrymen, enjoying the incalculable benefits of this great confederacy, and, among them, their annual distributive share of the issues of a nation's inheritance, would even they, the remote people of the Pacific, ever desire to separate themselves from such a high and glorious destiny? The fund which is to be dedicated to these great and salutary purposes, does not proceed from a few thousand acres of land, soon to be disposed of; but of more than ten hundred millions of acres; and age after age may roll away, state after state arise, generation succeed generation, and still the fund will remain not only unexhausted, but improved and increasing, for the benefit of our children's children, to the remotest posterity. The measure is not one pregnant with jealousy, discord, or division, but it is a far-reaching, comprehensive, healing measure of compromise and composure, having for its patriotic object the harmony, the stability, and the prosperity of the states and of the union.

# IN DEFENCE OF MR. WEBSTER.

## IN THE SENATE OF THE UNITED STATES, MARCH 1, 1841.

[ At the session of congress, the term of which expired with the administration of Mr. Van Buren, the honorable Daniel Webster resigned his seat in the senate, preparatory to taking office under president Harrison, as secretary of state, which had been offered to him by the president elect. Mr. Bates, of Massachusetts, having presented to the senate the credentials of the honorable Rufus Choate, who had been elected senator in the place of Mr. Webster, the latter took his seat this day, (first of March,) when Mr. Cuthbert, of Georgia, made some remarks reflecting on the political character of Mr. Webster, in connection with Mr. Clay, as his associate in the senate, which called out Mr. Clay in reply, and occasioned the following debate.]

Mr. Cuthbert said, that on the resignation of the late senator

say, satisfied every member of that body, with the exception of the senator from Georgia. He agreed with the senator from Vermont, (Mr. Phelps,) that it was all out of order. There was no necessity to create an occasion for the discussion. The distinguished gentleman from Massachusetts was soon to be nominated to that body, and then would be the proper time to bring out all the opposition to him. But the senator from Georgia had appealed to the courtesy of gentlemen, and he, (Mr. Clay,) was not willing to refuse the request.

No error could be greater than to judge of human character by a single act, a single sentiment or opinion. We were not to expect perfect coincidence in every thing abstract and practical.

[Mr. Cuthbert here addressed the chair.]

Mr. Clay said, I cannot be interrupted, Mr. President. I will not permit an interruption. The practice is much too common, and especially at the other end of the capitol. The senator from Georgia will have ample opportunity to reply when I have concluded. What was the question; what the subject of difference in the discussion? The senator from Georgia alleges that the distinguished gentleman from Massachusetts has expressed an opinion, in Faneuil hall, it was believed, that congress had the power to regulate the trade in slaves between the states. On this subject great diversity of opinion exists. The power to regulate did not imply the power to prohibit. Congress possesses the power to regulate foreign commerce, but it has no right to prohibit it.

But the senator from Georgia has adverted to the fact, that I and my distinguished friend (Mr. Webster) have agreed on some questions, and disagreed on others. Is there any thing unusual or singular in this? The senator from South Carolina, (Mr. Calhoun,) and the senator from Georgia, are now on the same side; have they always agreed? Was the gentleman from Georgia ever a nullifier? [Mr. Cuthbert said, no.] No. I presume there are many points of policy on which those gentlemen differ. The only correct method of judging, is, to take human nature in the *tout ensemble*, and not undertake to determine by a single instance.

The senator from Georgia has referred to three subjects in which I have differed with the gentleman from Massachusetts. The first was, the late war with Great Britain. Mr. Webster had regarded that war as unnecessary, and in that I think he was wrong. But there was another war; a domestic war; a war waged by general Jackson against the prosperity of the country; and where stood the senator from Georgia in that war? The gallant Webster contended for the people through this long war, with persevering ability, but the senator from Georgia was on the other side.

In regard to the compromise act, the gentleman from Massachusetts had been opposed to that healing measure. But how was it with other senators, with whom the gentleman from Georgia was now coöperating? The senator from Missouri, (Mr. Benton,) and the senator from New York, (Mr. Wright,) both voted against the compromise; but the gentleman finds no difficulty in acting with those gentlemen because they disagreed with him on that measure.

As it regards abolition, so far as I know the opinions of Mr. Webster, he is just as much averse to it as the senator from Georgia himself. That there is danger impending, no one will deny. The danger is in ultraism. The ultraism of a portion of the south on the one hand, and from abolition on the other. It is to be averted by a moderate but firm course; not being led off into extremes on the one side, or frightened on the other. Mr. Webster and myself have differed on some subjects, have coincided on others; and the senator from Georgia might have referred to an instance in which he himself had voted with Mr. Webster, and in opposition to me. I allude to the tariff of 1824. The substance of the charge is, that Mr. Webster and myself have agreed on certain matters, and disagreed on others; and if the senator from Georgia should undertake to compute the several agreements and disagreements, he would have to work out a more difficult problem than a friend of mine in the other house, who

# ON THE VETO OF THE FISCAL BANK BILL BY PRESIDENT TYLER.

## IN THE SENATE OF THE UNITED STATES, AUGUST 19, 1841.

[A FEW days after the inauguration of general Harrison as president of the United States — on the seventeenth of March, 1841 — he issued a proclamation convening an extra session of congress on the thirty-first of May, on which day both houses assembled, and formed a quorum. President Harrison having died on the fourth of April, was succeeded by the vice-president Tyler, who, in his message to congress, recommended, among other matters, the adoption of measures to create a fiscal agent for the convenience of government, and the regulation of the currency. A bill to establish a fiscal bank of the United States was reported, and, after discussion, passed the senate by a vote of twenty-six to twenty-three, and the house, by one hundred and twenty-eight to ninety-one. On the sixteenth of August, president Tyler, much to the surprise and regret of those to whom he owed his election, returned the bill to the senate, with his objections, and on the nineteenth, the executive message being under consideration, Mr. Clay addressed the senate as follows; to which Mr. Rives replied, and the same day Mr. Clay made his rejoinder to Mr. Rives, in the remarks following this speech.]

MR. PRESIDENT, the bill which forms the present subject of our deliberations, had passed both houses of congress by decisive majorities, and, in conformity with the requirement of the constitution, was presented to the president of the United States for his consideration. He has returned it to the senate, in which it originated, according to the direction of the constitution, with a message announcing his veto of the bill, and containing his objections to its passage. And the question now to be decided is, shall the bill pass, by the required constitutional majority of two thirds, the president's objections notwithstanding?

Knowing, sir, but too well that no such majority can be obtained, and that the bill must fall, I would have been rejoiced to have found myself at liberty to abstain from saying one word on this painful occasion. But the president has not allowed me to give a silent vote. I think, with all respect and deference to him, he has not reciprocated the friendly spirit of concession and compromise which animated congress in the provisions of this bill, and especially in the modification of the sixteenth fundamental condition of the bank. He has commented, I think, with undeserved severity, on that part of the bill; he has used, I am sure unintentionally,

harsh if not reproachful language; and he has made the very concession, which was prompted as a peace-offering, and from friendly considerations, the cause of stronger and more decided disapprobation of the bill. Standing in the relation to that bill which I do, and especially to the exceptionable clause, the duty which I owe to the senate and to the country, and self-respect, impose upon me the obligation of at least attempting the vindication of a measure which has met with a fate so unmerited, and so unexpected.

On the fourth of April last, the lamented Harrison, the president of the United States, paid the debt of nature. President Tyler, who, as vice-president, succeeded to the duties of that office, arrived in the city of Washington, on the sixth of that month. He found the whole metropolis wrapped in gloom, every heart filled with sorrow and sadness, every eye streaming with tears, and the surrounding hills yet flinging back the echo of the bells which were tolled on that melancholy occasion. On entering the presidential mansion, he contemplated the pale body of his predecessor stretched before him, and clothed in the black habiliments of death. At that solemn moment, I have no doubt that the heart of president Tyler was overflowing with mingled emotions of grief, of patriotism, and of gratitude — above all, of gratitude to that country, by a majority of whose suffrages, bestowed at the preceding November, he then stood the most distinguished, the most elevated, the most honored of all living whigs of the United States.

To this clause in the address of the president, I believe but one interpretation was given throughout this whole country, by friend and foe, by whig and democrat, and by the presses of both parties. It was, by every man with whom I conversed on the subject at the time of its appearance, or of whom I have since inquired, construed to mean that the president intended to occupy the Madison ground, and to regard the question of the power to establish a national bank as immovably settled. And I think I may confidently appeal to the senate and to the country, to sustain the fact, that this was the contemporaneous and unanimous judgment of the public. Reverting back to the period of the promulgation of the address, could any other construction have been given to its language? What is it? 'I shall *promptly* give my sanction to any constitutional measure, which, *originating in congress*,' shall have certain defined objects in view. He concedes the vital importance of a sound circulating medium to industry, and to the public prosperity. He concedes that its origin must be in congress. And to prevent any inference from the qualification, which he prefixes to the measure, being interpreted to mean that a United States bank was unconstitutional, he declares, that in deciding on the adaptation of the measure to the end proposed, and its *conformity* to the constitution, he will resort to the fathers of the great republican school. And who were they? If the father of his country is to be excluded, are Madison, (the father of the constitution,) Jefferson, Monroe, Gerry, Gallatin, and the long list of republicans who acted with them, not to be regarded as among those fathers? But president Tyler declares, not only that he should appeal to them for advice and instruction, but to the light of their ever glorious EXAMPLE. What example? What other meaning could have been possibly applied to the phrase, than that he intended to refer to what had been done during the administration of Jefferson, Madison, and Monroe?

Entertaining this opinion of the address, I came to Washington at the commencement of the session, with the most confident and buoyant hopes that the whigs would be able to carry all their prominent measures, and especially a bank of the United States, by far that one of the greatest immediate importance. I anticipated nothing but cordial coöperation between the two departments of government; and I reflected with pleasure, that I should find, at the head of the executive branch, a personal and political friend, whom I had long and intimately known, and highly esteemed. It will not be my fault, if our amicable relations should unhappily cease, in consequence of any difference of opinion between us on this occasion. The president has been always perfectly familiar with my opinion on this bank question.

Upon the opening of the session, but especially on the receipt of a plan of a national bank, as proposed by the secretary of the

treasury, fears were excited that the president had been misunderstood in his address, and that he had not waived but adhered to his constitutional scruples. Under these circumstances, it was hoped, that, by the indulgence of a mutual spirit of compromise and concession, a bank, competent to fulfil the expectations and satisfy the wants of the people, might be established.

Under the influence of that spirit, the senate and the house agreed, first, as to the name of the proposed bank. I confess, sir that there was something exceedingly *outré* and revolting to my ears, in the term 'fiscal bank;' but I thought, 'what is there in a name? A rose by any other name would smell as sweet.' Looking, therefore, rather to the utility of the substantial faculties, than to the name of the contemplated institution, we consented to that which was proposed.

Secondly, as to the place of location of the bank. Although Washington had passed through my mind as among the cities in which it might be expedient to place the bank, it was believed to be the least eligible of some four or five other cities. Nevertheless, we consented to fix it here.

And, lastly, in respect to the branching power, there was not, probably, a solitary vote given in either house of congress for the bill, that did not greatly prefer the unqualified branching power, as asserted in the charters of the two former banks of the United States, to the sixteenth fundamental condition, as finally incorporated in this bill. It is perfectly manifest, therefore, that it was not

the president, and I presumed that he would not fail to feel and appreciate their sacrifices. But I deeply regret that we were mistaken. Notwithstanding all our concessions, made in a genuine and sincere spirit of conciliation, the sanction of the president could not be obtained, and the bill has been returned by him with his objections.

And I shall now proceed to consider those objections, with as much brevity as possible, but with the most perfect respect, official and personal, towards the chief magistrate.

After stating that the power of congress to establish a national bank, to operate *per se*, has been a controverted question from the origin of the government, the president remarks:

'Men most justly and deservedly esteemed for their high intellectual endowments, their virtue and their patriotism, have, in regard to it, entertained different and conflicting opinions. Congress have differed. The approval of one president has been followed by the disapproval of another.'

From this statement of the case it may be inferred, that the president considers the weight of authority, pro and con, to be equal and balanced. But if he intended to make such an array of it, if he intended to say that it was an equilibrium, I must respectfully, but most decidedly, dissent from him. I think the conjoint testimony of history, tradition, and the knowledge of living witnesses proves the contrary. How stands the question as to the opinion of congresses? The congress of 1791, the congress of 1813–14, the congress of 1815–16, the congress of 1831–32, and, finally, the present congress, have all respectively and unequivocally, affirmed the existence of a power in congress to establish a national bank to operate *per se*. We behold, then, the concurrent opinion of five different congresses on one side. And what congress is there on the opposite side? The congress of 1811? I was a member of the senate in that year, when it decided, by the casting vote of the vice-president, against the renewal of the charter of the old bank of the United States. And I now here, in my place, add to the testimony already before the public, by declaring that it is within my certain knowledge, that that decision of the senate did not proceed from a disbelief of a majority of the senate in the power of congress to establish a national bank, but from combined considerations of expediency and constitutionality. A majority of the senate, on the contrary, as I know, entertained no doubt as to the power of congress. Thus the account, as to congresses, stands five for and not one, or, at most, not more than one, against the power.

Let us now look into the state of authority derivable from the opinions of presidents of the United States. President Washington believed in the power of congress, and approved a bank bill. President Jefferson approved acts to extend branches into other

bank of the United States. It is
Monroe never did entertain any scru
power of congress. Here, then, are
States who have directly or collater
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Tyler? General Jackson, although
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Thus, Mr. President, we perceive
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Mr. President, I must think, and hope I may be allowed to say, with profound deference to the chief magistrate, that it appears to me, he has viewed with too lively sensibility the personal consequences to himself of his approval of the bill; and that, surrendering himself to a vivid imagination, he has depicted them in much too glowing and exaggerated colors, and that it would have been most happy, if he had looked more to the deplorable consequences of a veto upon the hopes, the interests, and the happiness of his country. Does it follow that a magistrate who yields his private judgment to the concurring authority of numerous decisions, repeatedly and deliberately pronounced, after the lapse of long intervals, by all the departments of government, and by all parties, incurs the dreadful penalties described by the president? Can any man be disgraced and dishonored, who yields his private opinion to the judgment of the nation? In this case, the country, (I mean a majority,) congress, and, according to common fame, a unanimous cabinet, were all united in favor of the bill. Should any man feel himself humbled and degraded in yielding to the conjoint force of such high authority? Does any man, who at one period of his life shall have expressed a particular opinion, and at a subsequent period shall act upon the opposite opinion, expose himself to the terrible consequences which have been portrayed by the president? How is it with the judge, in the case by no means rare, who bows to the authority of repeated precedents, settling a particular question, whilst in his private judgment, the law was otherwise? How is it with that numerous class of public men in this country, and with the two great parties that have divided it, who, at different periods have maintained and acted on opposite opinions in respect to this very bank question?

How is it with James Madison, the father of the constitution — that great man whose services to his country placed him only second to Washington; whose virtues and purity in private life, whose patriotism, intelligence, and wisdom in public councils, stand unsurpassed? He was a member of the national convention that formed, and of the Virginia convention that adopted, the constitution. No man understood it better than he did. He was opposed, in 1791, to the establishment of the bank of the United States, upon constitutional ground; and, in 1816, he approved and signed the charter of the late bank of the United States. It is a part of the secret history connected with the first bank, that James Madison had, at the instance of general Washington, prepared a veto for him in the contingency of his rejection of the bill. Thus stood James Madison, when, in 1815, he applied the veto to a bill to charter a bank upon considerations of expediency, but with a clear and express admission of the existence of a constitutional power of congress to charter one. In 1816, the bill which was then presented to him being free from the objections applicable to

that of the previous year, he sanctioned and signed it. Did James Madison surrender 'all claim to the respect of honorable men, all confidence on the part of the people, all self-respect, all regard for moral and religious obligations?' Did the pure, the virtuous, the gifted James Madison, by his sanction and signature to the charter of the late bank of the United States, commit a *crime*, which *justly* subjected him 'to the ridicule and scorn of all virtuous men?'

Not only did the president, as it respectfully appears to me, state entirely too strongly the consequences of his approval of the bill, but is he perfectly correct in treating the question, (as he seems to me to have done,) which he was called upon to decide, as presenting the sole alternative of his direct approval or rejection of the bill? Was the preservation of the consistency and the conscience of the president wholly irreconcilable with the restoration of the blessings of a sound currency, regular and moderate exchanges, and the revival of confidence and business, which congress believes will be secured by a national bank? Was there no alternative but to prolong the sufferings of a bleeding country, or to send us this veto? From the administration of the executive department of the government, during the last twelve years, has sprung most of the public ills which have afflicted the people. Was it necessary that that source of suffering should continue to operate, in order to preserve the conscience of the president unviolated? Was that

consideration of the question of the renewal of the charter was entertained, and that he expressed a wish, that, if the charter were renewed, it might be effected by the operation of the ten days' provision, and his consistency thus preserved.

If it were possible to disinter the venerated remains of James Madison, reanimate his perishing form, and place him once more in that chair of state, which he so much adorned, what would have been his course, if this bill had been presented to him, even supposing him never to have announced his acquiescence in the settled judgment of the nation? He would have said, that human controversy, in regard to a single question, should not be perpetual, and ought to have a termination. This, about the power to establish a bank of the United States, has been long enough continued. The nation, under all the forms of its public action, has often and deliberately decided it. A bank, and associated financial and currency questions, which had long slept, were revived, and have divided the nation during the last ten years of arduous and bitter struggle; and the party which put down the bank, and which occasioned all the disorders in our currency and finances, has itself been signally put down, by one of those great moral and political revolutions which a free, a patriotic people can but seldom arouse itself to make. Human infallibility has not been granted by God; and the chances of error are much greater on the side of one man, than on that of the majority of a whole people and their successive legislatures during a long period of time. I yield to the irresistible force of authority. I will not put myself in opposition to a measure so imperatively demanded by the public voice, and so essential to elevate my depressed and suffering countrymen.

And why should not president Tyler have suffered the bill to become a law without his signature? Without meaning the slightest possible disrespect to him, (nothing is further from my heart than the exhibition of any such feeling towards that distinguished citizen, long my personal friend,) it cannot be forgotten, that he came into his present office under peculiar circumstances. The people did not foresee the contingency which has happened. They voted for him as vice-president. They did not, therefore, scrutinize his opinions with the care which they probably ought to have done, and would have done, if they could have looked into futurity. If the present state of the fact could have been anticipated — if at Harrisburg, or at the polls, it had been foreseen, that general Harrison would die in one short month after the commencement of his administration; that vice-president Tyler would be elevated to the presidential chair; that a bill, passed by decisive majorities of the first whig congress, chartering a national bank, would be presented for his sanction, and that he would veto the bill, do I hazard any thing, when I express the conviction, that he would

not have received a solitary vote in the nominating convention, nor one solitary electoral vote in any state in the union?

Shall I be told that the honor, the firmness, the independence of the chief magistrate might have been drawn in question if he had remained passive, and so permitted the bill to become a law? I answer, that the office of chief magistrate is a sacred and exalted trust, created and conferred for the benefit of the nation, and not for the private advantage of the person who fills it. Can any man's reputation for firmness, independence, and honor, be of more importance than the welfare of a great people? There is nothing, in my humble judgment, in such a course, incompatible with honor, with firmness, with independence, properly understood. Certainly, I most respectfully think, in reference to a measure like this, recommended by such high sanctions — by five congresses, by the authority of four presidents, by repeated decisions of the supreme court, by the acquiescence and judgment of the people of the United States during long periods of time, by its salutary operation on the interests of the community for a space of forty years, and demanded by the people whose suffrages placed president Tyler in that second office from whence he was translated to the first that he might have suppressed the promptings of all personal pride of private opinion, if any arose in his bosom, and yielded to the wishes and wants of his country. Nor do I believe, that, in such a course, he would have made the smallest sacrifice,

testable, that it was the great, absorbing, and controlling question, in all our recent divisions and exertions. I am firmly convinced, and it is my deliberate judgment, that an immense majority, not less than two thirds of the nation, desire such an institution. All doubts in this respect ought to be dispelled, by the recent decisions of the two houses of congress. I speak of them *as evidence* of popular opinion. In the house of representatives the majority was one hundred and thirty-one to one hundred. If the house had been full, and but for the modification of the sixteenth fundamental condition, there would have been a probable majority of forty seven. Is it to be believed that this large majority of the immediate representatives of the people, fresh from amongst them, and to whom the president seemed inclined, in his opening message, to refer this very question, have mistaken the wishes of their constituents?

I pass the sixteenth fundamental condition, in respect to the branching power, on which I regret to feel myself obliged to say, that I think the president has commented with unexampled severity, and with a harshness of language not favorable to the maintenance of that friendly and harmonious intercourse, which is so desirable between coördinate departments of the government. The president could not have been uninformed, that every one of the twenty-six senators, and every one of the hundred and thirty-one representatives who voted for the bill, if left to his own separate wishes, would have preferred the branching power to have been conferred unconditionally, as it was in the charters of the two former banks of the United States. In consenting to the restrictions upon the exercise of that power, he must have been perfectly aware, that they were actuated by a friendly spirit of compromise and concession. Yet nowhere in his message does he reciprocate or return this spirit. Speaking of the assent or dissent which the clause requires, he says, 'this *iron* rule is to give way to no circumstances — it is unbending and inflexible. It is the language of the master to the vassal. An unconditional answer is claimed *forthwith*.' The 'high privilege' of a submission of the question, on the part of the state representatives, to their constituents, according to the message, is denied. He puts the cases of a popular branch of a state legislature, expressing its dissent 'by a unanimous vote, and its resolution may be defeated by a tie vote in the senate,' and 'both branches of the legislature may concur in a resolution of decided dissent, and yet the governor may exert the veto power conferred on him by the state constitution, and their legislative action be defeated.' 'The state may afterwards *protest* against such unjust inference, but its authority *is gone*.' The president continues: 'to inferences so violent, and as they seem to me *irrational*. I cannot yield my consent. No court of justice would or could sanction them, without reversing all that is established in judicial

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the other? Suppose the popular branch were to express its assent to the establishment of a branch bank, by a unanimous vote, which is overruled by an equal vote in the senate. Or suppose that both branches of the legislature, by majorities in each, exactly wanting one vote to make them two thirds, were to concur in a resolution inviting the introduction of a branch within the limits of the state, and the governor were to exercise the veto power, and defeat the resolution. Would it be very unreasonable, in these two cases, to infer the assent of the state to the establishment of a branch?

Extreme cases should never be resorted to. Happily for mankind, their affairs are but seldom affected or influenced by them, in consequence of the rarity of their occurrence.

The plain, simple, unvarnished statement of the case is this. Congress believes itself invested with constitutional power to authorize, unconditionally, the establishment of a bank of the United States and branches, any where in the United States, without asking any other consent of the states than that which is already expressed in the constitution. The president does not concur in the existence of that power, and was supposed to entertain an opinion, that the previous assent of the states was necessary. Here was an unfortunate conflict of opinion. Here was a case for compromise and mutual concession, if the difference could be reconciled. Congress advanced so far towards a compromise as to allow the states to express their assent or dissent, but then it thought that this should be done within some limited but reasonable time; and it believed, since the bank and its branches were established for the benefit of twenty-six states, if the authorities of any one of them really could not make up their mind within that limited time, either to assent or dissent to the introduction of a branch, that it was not unreasonable, after the lapse of the appointed time, without any positive action, one way or the other, on the part of the state, to proceed as if it had assented. Now, if the power contended for by congress really exists, it must be admitted that here was a concession — a concession according to which an unconditional power is placed under temporary restrictions — a privilege offered to the states, which was not extended to them by either of the charters of the two former banks of the United States. And I am totally at a loss to comprehend how the president reached the conclusion, that it would have been 'far better to say to the states, boldly and frankly, congress wills, and submission is demanded.' Was it better for the states that the power of branching should be exerted without consulting them at all? Was it nothing to afford them an opportunity of saying whether they desired branches or not? How can it be believed, that a clause which qualifies, restricts, and limits the branching power, is more derogatory to the dignity, independence, and sovereignty of the states, than if it inexorably refused to the states any power whatever

to deliberate and decide on the introduction of branches? Limited as the time was, and unconditionally as they were required to express themselves, still those states, (and that probably would have been the case with the greater number,) that chose to announce their assent or dissent, could do so, and get or prevent the introduction of a branch. But the president remarks, that 'the state may express, after the most solemn form of legislation, its dissent, which may from time to time thereafter be repeated, in full view of its own interest, which can never be separated from the wise and beneficent operation of this government; and yet congress may, by virtue of the last proviso, overrule its law, and upon grounds which, to such state, will appear to rest on a constructive necessity and propriety, and nothing more.'

Even if the dissent of a state should be overruled, in the manner supposed by the president, how is the condition of that state worse than it would have been if the branching power had been absolutely and unconditionally asserted in the charter? There would have been, at least, the power of dissenting conceded, with a high degree of probability, that if the dissent were expressed, no branch would be introduced.

The last proviso to which the president refers is in these words: 'and provided, nevertheless, that whenever it shall become necessary and proper for carrying into execution any of the powers granted by the constitution, to establish an office or offices in any

constitution, the acts of congress, and treaties being so declared by the express words of the constitution. Whenever, therefore, this government acts within the powers granted to it by the constitution, submission and obedience are due from all; from states as well as from persons. And if this present the image of a master and a vassal, of state subjection and congressional domination, it is the constitution, created or consented to by the states, that ordains these relations. Nor can it be said, in the contingency supposed, that an act of congress has repealed an act of state legislation. Undoubtedly in case of a conflict between a state constitution or state law, and the constitution of the United States, or an act of congress passed in pursuance of it, the state constitution or state law would yield. But it could not, at least, be formally or technically said, that the state constitution or law was repealed. Its operation would be suspended or abrogated by the necessary predominance of the paramount authority.

The president seems to have regarded as objectionable that provision in the clause which declares, that a branch being once established, it should not afterwards be withdrawn or removed without the previous consent of congress. That provision was intended to operate both upon the bank and the states. And, considering the changes and fluctuations in public sentiment in some of the states within the last few years, was the security against them to be found in that provision unreasonable? One legislature might invite a branch, which the next might attempt, by penal or other legislation, to drive away. We have had such examples heretofore, and I cannot think that it was unwise to profit by experience. Besides, an exactly similar provision was contained in the scheme of a bank which was reported by the secretary of the treasury, and to which it was understood the president had given his assent. But if I understand this message, that scheme could not have obtained his sanction, if congress had passed it without any alteration whatever. It authorized what is termed by the president local discount, and he does not believe the constitution confers upon congress power to establish a bank having that faculty. He says, indeed, 'I regard the bill as asserting for congress the right to incorporate a United States bank, with power and right to establish offices of discount and deposit in the several states of this union, *with or without their consent; a principle to which I have always heretofore been opposed, and which can never obtain my sanction.*' I pass with pleasure from this painful theme; deeply regretting that I have been constrained so long to dwell on it.

On a former occasion I stated, that in the event of an unfortunate difference of opinion between the legislative and executive departments, the point of difference might be developed, and it would be then seen whether they could be brought to coincide in

any measure corresponding with the public hopes and expectations. I regret that the president has not, in this message, favored us with a more clear and explicit exhibition of his views. It is sufficiently manifest that he is decidedly opposed to the establishment of a new bank of the United States formed after the two old models. I think it is fairly to be inferred, that the plan of the secretary of the treasury could not have received his sanction. He is opposed to the passage of the bill which he has returned; but whether he would give his approbation to any bank, and, if any, what sort of a bank, is not absolutely clear. I think it may be collected from the message, with the aid or information derived through other sources, that the president would concur in the establishment of a bank whose operations should be limited to dealing in bills of exchange, to deposits, and to the supply of a circulation, excluding the power of discounting promissory notes. And I understand that some of our friends are now considering the practicability of arranging and passing a bill in conformity with the views of president Tyler? Whilst I regret that I can take no active part in such an experiment, and must reserve to myself the right of determining, whether I can or cannot vote for such a bill after I see it in its matured form, I assure my friends that they shall find no obstacle or impediment in me. On the contrary, I say to them, go on: God speed you in any measure which will serve the country, and preserve or restore harmony and concert between the

debt, and for the protection of American industry. This house has solved the problem of the competency of a large deliberative body to transact the public business. If happily there had existed a concurrence of opinion and cordial coöperation between the different departments of the government, and all the members of the party, we should have carried every measure contemplated at the extra session, which the people had a right to expect from our pledges, and should have been, by this time, at our respective homes. We are disappointed in one, and an important one, of that series of measures; but shall we therefore despair? Shall we abandon ourselves to unworthy feelings and sentiments? Shall we allow ourselves to be transported by rash and intemperate passions and counsels? Shall we adjourn, and go home in disgust? No! No! No! A higher, nobler, and more patriotic career lies before us. Let us here, at the east end of Pennsylvania avenue, do our duty, our whole duty, and nothing short of our duty, towards our common country. We have repealed the sub-treasury. We have passed a bankrupt law—a beneficent measure of substantial and extensive relief. Let us now pass the bill for the distribution of the proceeds of the public lands, the revenue-bill, and the bill for the benefit of the oppressed people of this district. Let us do all, let us do every thing we can for the public good. If we are finally to be disappointed in our hopes of giving to the country a bank, which will once more supply it with a sound currency, still let us go home and tell our constituents, that we did all that we could under actual circumstances; and that, if we did not carry every measure for their relief, it was only because to do so was impossible. If nothing can be done at this extra session, to put upon a more stable and satisfactory basis the currency and exchanges of the country, let us hope that hereafter some way will be found to accomplish that most desirable object, either by an amendment of the constitution, limiting and qualifying the enormous executive power, and especially the veto, or by increased majorities in the two houses of congress, competent to the passage of wise and salutary laws, the president's objections notwithstanding.

This seems to me to be the course now incumbent upon us to pursue; and by conforming to it, whatever may be the result of laudable endeavors, now in progress or in contemplation in relation to a new attempt to establish a bank, we shall go home bearing no self-reproaches for neglected or abandoned duty.

# ON THE BANK VETO.

## IN REPLY TO THE SPEECH OF MR. RIVES, OF VIRGINIA, ON THE EXECUTIVE MESSAGE CONTAINING THE PRESIDENT'S OBJECTIONS TO THE BANK BILL.

IN THE SENATE OF THE UNITED STATES, AUGUST 19, 1841.

MR. RIVES having concluded his remarks,

Mr. Clay rose in rejoinder. I have no desire, said he, to prolong this unpleasant discussion; but I must say that I heard with great surprise and regret the closing remark, especially, of the honorable gentleman from Virginia, as, indeed, I did many of those which preceded it. That gentleman stands in a peculiar situation. I found him several years ago in the half-way house, where he seems afraid to remain, and from which he is yet unwilling to go. I had thought, after the thorough riddling which the roof of

of what sort of one will be acceptable at the other end of the avenue. Yet now, with a vast majority of the people of the entire country crying out to us for a bank; with the people throughout the whole valley of the Mississippi rising in their majesty, and demanding it as indispensable to their well-being, and pointing to their losses, their sacrifices, and their sufferings, for the want of such an institution; in such a state of things, we are gravely and coldly told by the honorable senator from Virginia, that we had best go home, leaving the purse and the sword in the uncontrolled possession of the president, and, above all things, never to make a party bank! Why sir, does he, with all his knowledge of the conflicting opinions which prevail here, and have prevailed, believe that we ever can make a bank but by the votes of one party who are in favor of it, in opposition to the votes of another party against it? I deprecate this expression of opinion from that gentleman the more, because, although the honorable senator professes not to know the opinions of the president, it certainly does turn out in the sequel, that there is a most remarkable coincidence between those opinions and his own; and he has, on the present occasion, defended the motives and the course of the president with all the solicitude and all the fervent zeal of a member of his *privy council.* There is a rumor abroad, that a cabal exists — a new sort of kitchen cabinet — whose object is the dissolution of the regular cabinet, the dissolution of the whig party, the dispersion of congress without accomplishing any of the great purposes of the extra session, and a total change, in fact, in the whole face of our political affairs. I hope, and I persuade myself, that the honorable senator is not, cannot be, one of the component members of such a cabal; but I must say, that there has been displayed by the honorable senator to-day a predisposition, astonishing and inexplicable, to misconceive almost all of what I have said, and a perseverance, after repeated corrections, in misunderstanding — for I will not charge him with wilfully and intentionally misrepresenting — the whole spirit and character of the address which, as a man of honor, and as a senator, I felt myself bound in duty to make to this body.

The senator begins with saying that I charge the president with 'perfidy!' Did I use any such language? I appeal to every gentleman who heard me, to say whether I have in a single instance gone beyond a fair and legitimate examination of the executive objections to the bill. Yet he has charged me with 'arraigning' the president, with indicting him in various counts, and with imputing to him motives such as I never even intimated or dreamed; and that, when I was constantly expressing, over and over, my personal respect and regard for president Tyler, for whom I have cherished an intimate personal friendship of twenty years' standing, and while I expressly said, that if that friendship should now be interrupted, it should not be my fault! Why, sir, what

ossible, what conceivable motive can I have to quarrel with the resident, or to break up the whig party? What earthly motive an impel me to wish for any other result than that that party shall emain in perfect harmony, undivided, and shall move undismayed oldly and unitedly forward to the accomplishment of the all-mportant public objects which it has avowed to be its aim? What maginable interest or feeling can I have other than the success, the riumph, the glory of the whig party? But that there may be lesigns and purposes on the part of certain other individuals to lace me in inimical relations with the president, and to represent ne as personally opposed to him, I can well imagine — individuals vho are beating up for recruits, and endeavoring to form a third arty with materials so scanty as to be wholly insufficient to ompose a decent corporal's guard. I fear there are such indi-iduals, though I do not charge the senator as being himself one f them. What a spectacle has been presented to this nation luring this entire session of congress! That of the cherished and onfidential friends of John Tyler, persons who boast and claim to e, *par excellence*, his exclusive and genuine friends, being the itter, systematic, determined, uncompromising opponents of every eading measure of John Tyler's administration! Was there ever efore such an example presented, in this or any other age, in this r any other country? I have myself known the president too ong, and cherish toward him too sincere a friendship, to allow my eelings to be affected or alienated by any thing which has passed

At Hanover, in Virginia, during the last summer, at one of the most remarkable, and respectable, and gratifying assemblages that I ever attended, I distinctly announced my conviction, that a bank of the United States was indispensable. As to the opinions of general Harrison, I know that, like many others, he had entertained doubts as to the constitutionality of a bank; but I also know that, as the election approached, his opinions turned more in favor of a national bank; and I speak from my own personal knowledge of his opinions, when I say that I have no more doubt he would have signed that bill, than that you, Mr. President, now occupy that chair, or that I am addressing you.

I rose not to say one word which should wound the feelings of President Tyler. The senator says that, if placed in like circumstances, I would have been the last man to avoid putting a direct veto upon the bill, had it met my disapprobation; and he does me the honor to attribute to me high qualities of stern and unbending intrepidity. I hope, that in all that relates to personal firmness, all that concerns a just appreciation of the insignificance of human life — whatever may be attempted to threaten or alarm a soul not easily swayed by opposition, or awed or intimidated by menace — a stout heart and a steady eye, that can survey, unmoved and undaunted, any mere personal perils that assail this poor, transient, perishing frame, I may, without disparagement, compare with other men. But there is a sort of courage, which, I frankly confess it, I do not possess, a boldness to which I dare not aspire, a valor which I cannot covet. I cannot lay myself down in the way of the welfare and happiness of my country. That I cannot, I have not the courage to do. I cannot interpose the power with which I may be invested, a power conferred not for my personal benefit, nor for my aggrandizement, but for my country's good, to check her onward march to greatness and glory. I have not courage enough, I am too cowardly for that. I would not, I dare not, in the exercise of such a trust, lie down, and place my body across the path that leads my country to prosperity and happiness. This is a sort of courage widely different from that which a man may display in his private conduct and personal relations. Personal or private courage is totally distinct from that higher and nobler courage which prompts the patriot to offer himself a voluntary sacrifice to his country's good.

Nor did I say, as the senator represents, that the president should have resigned. I intimated no personal wish or desire that he should resign. I referred to the fact of a memorable resignation in his public life. And what I did say was, that there were other alternatives before him besides vetoing the bill; and that it was worthy of his consideration whether consistency did not require that the example which he had set when he had a constituency of one state, should not be followed when he had a constituency

commensurate with the whole union. Another alternative was to suffer the bill, without his signature, to pass into a law under the provisions of the constitution. And I must confess I see, in this, no such escaping by the back door, no such jumping out of the window, as the senator talks about. Apprehensions of the imputation of the want of firmness sometimes impel us to perform rash and inconsiderate acts. It is the greatest courage to be able to bear the imputation of the want of courage. But pride, vanity, egotism, so unamiable and offensive in private life, are vices which partake of the character of crimes in the conduct of public affairs. The unfortunate victim of these passions cannot see beyond the little, petty, contemptible circle of his own personal interests. All his thoughts are withdrawn from his country, and concentrated on his consistency, his firmness, himself. The high, the exalted, the sublime emotions of a patriotism, which, soaring towards heaven, rises far above all mean, low, or selfish things, and is absorbed by one soul-transporting thought of the good and the glory of one's country, are never felt in his impenetrable bosom. That patriotism which, catching its inspirations from the immortal God, and leaving at an immeasurable distance below all lesser, grovelling, personal interests and feelings, animates and prompts to deeds of self-sacrifice, of valor, of devotion, and of death itself — that is public virtue; that is the noblest, the sublimest of all public virtues!

I said nothing of any obligation on the part of the president to

please, but it is my conscientious conviction that two-thirds, if not more, of the people of the United States desire such an institution,) I thought I beheld a sure and certain guarantee for the fulfilment of the wishes of the people of the United States. I thought it impossible, that the wants and wishes of a great people, who had bestowed such unbounded and generous confidence, and conferred on him such exalted honors, should be disregarded and disappointed. It did not enter into my imagination to conceive, that one, who had shown so much deference and respect to the presumed sentiments of a single state, should display less towards the sentiments of the whole nation.

I hope, Mr. President, that, in performing the painful duty which had devolved on me, I have not transcended the limits of legitimate debate. I repeat, in all truth and sincerity, the assurance to the senate and to the country, that nothing but a stern, reluctant, and indispensable sense of honor and of duty could have forced from me the response which I have made to the president's objections. But, instead of yielding without restraint to the feelings of disappointment and mortification excited by the perusal of his message, I have anxiously endeavored to temper the notice of it, which I have been compelled to take, by the respect due to the office of chief magistrate, and by the personal regard and esteem which I have ever entertained for its present incumbent.

# ON A GENERAL BANKRUPT LAW.

## IN THE SENATE OF THE UNITED STATES, JANUARY 17, 1842.

[THE subject of a general bankrupt law, after the repeal of the law of 1800, which took place in 1803, had been frequently agitated in congress. Bills were at different periods introduced and discussed, some of which passed the senate, but were lost in the house of representatives. In 1837, president Van Buren recommended to congress the passage of a bankrupt law, exclusively applicable to banks, and other corporations; but the proposition met with very little favor at the time. The pecuniary distress prevailing throughout the country, during the administration of that president, caused many memorials to be presented to congress, praying for a general bankrupt law for the relief of the people, and, on the twenty-third of March, 1840, on presenting a memorial from a large number of the citizens of New York, asking the passage of a uniform bankrupt law, Mr. Clay took occasion to say, that he had been at all times favorable to such a measure, and was then ready to support such a bill, when found suitable in its details, for the exigencies required. In April, three different bills were introduced in the senate, one of which was taken up and discussed On motion of a senator from Alabama, (an administration man,) sustained by Mr Clay, of Kentucky, among others, the clause subjecting banks to the operation of the

Mr. Clay said, that he was charged with the presentation of a great many memorials, all remonstrating against any repeal or postponement of the bankrupt law. He would not trouble the senate with having them read. There were a great many from the state of New York; two from the state of Maryland; one from Pennsylvania; one from Newark, New Jersey; one from Boston, signed by hundreds of persons; a city which, from its mercantile character, must be supposed to have knowledge on the subject, in which were mingled the names of those both able and unable to pay their debts; also, three from his own state, (Kentucky,) one from the capital of the state, in which were the proceedings of a meeting, strongly remonstrating against interference with the law, going into arguments to show why it should not be repealed or postponed. To this there were four hundred signatures, all of which, the secretaries informed him, were voluntarily made.

Mr. Clay referred to an opinion, which had been thrown out under the sanction of some high commercial authority in New York, that the bankrupt bill, if it should become a law, would operate to throw one hundred millions worth of property into the market to be sacrificed. Such a remark, coming from that source, might be likely to have some weight. But it must be remembered that the estimate of one hundred millions, was mere assumption and random conjecture, for no man could tell, with any thing like accuracy, what the amount would be; it might just as well have been set down at two hundred millions, as at one. But be the amount what it might, in estimating the weight of the statement, as an argument against the bill, it should be inquired, on the other hand, what would be done with this property, should the bill not go into effect? Would it be kept *out* of the market? Not at all. On the contrary, it would be thrown into the market, to be sold under the hammer, by sheriffs and other officers executing the process of the courts, and that without competition to raise the price. For when the property of a debtor was seized by one of his creditors, what motive could his other creditors have to enhance its avails, by competition at the sale? None in the world. On the contrary, should the law remain undisturbed, what would be the course of action under it? According to his understanding of the act, it would produce a distribution of the goods of the debtor among all his creditors, *pro rata;* of course, when his property should be set up to sale, it would be the interest of them all to make as much out of it as possible. They would bid it up, instead of suffering it to be sacrificed for a song. He considered, that whatever might be the exact form of legal proceedings in carrying out the law, the result in practice would be, that, under the benignant operation of the act, there would be a distribution of the debtor's effects, not only among all his creditors, but at the highest price they could be made to command.

Mr. Clay went on to say that it was not his purpose to go, at his time, into a discussion of the subject generally. He had nought of the bankrupt act as a measure, which came recommended to congress, not only by all considerations of justice, of umanity, and benevolence, but recommended no less by the ppalling condition of the country. If, among all the other disresses, discontents, and disorders, which every where prevailed to o alarming an extent, this legislature should now slam the door in he faces of those unfortunate men, who had at length hoped to be iberated from irretrievable embarrassment, by the beneficent operions of this law, it would produce such a state of excitement, istress, disorder, and despair, from one end of the land to the ther, that no man could foresee, or even conjecture, the conseuences.

But he could not terminate the brief remarks with which he had eemed it proper to accompany the presentation of these petitions nd memorials, without adverting, for a moment, to a circumstance which had a personal relation to himself. The senate would do im the justice to admit, that he rarely introduced any thing of hat description on their notice; never, indeed, unless under a ense of unavoidable necessity. An intimation had recently ppeared in some of the public prints of the day, that the movement now in progress in the other wing of the capitol, towards a epeal of the bankrupt law, had originated with him, (Mr. Clay.)

theirs. The representatives from Kentucky, in either house of congress, had enough of manly independence, to judge and to act for themselves, and to vote as their own individual views of duty should prompt them. But this accusation, base and despicable as it was in itself, had, notwithstanding, assumed such a shape as to render it Mr. Clay's duty to bring it to the notice of the senate; and he felt very sure that it was only necessary for him to bring it home to the bosom of every senator, to have it promptly, instantaneously rejected and repelled, as utterly groundless. For whatever might have been their difference of sentiment — and no man regretted more than he did, that it should have been his misfortune to differ in opinion from any portion of the gentlemen of that chamber — he was satisfied that all, both friends and foes, would, with one voice, do him the justice to say, that, whatever might have been the errors of his head, he had, at least, sought to live, as he hoped to die, an HONEST MAN — honest in his public, as in his private life.

# ON THE AMENDMENT OF THE CONSTITUTION RESPECTING THE VETO POWER.

IN THE SENATE OF THE UNITED STATES, JANUARY 24, 1842.

[THE frequent use of the veto power, by presidents Jackson and Tyler, by which very important bills passed by congress had been defeated, to the detriment of the public interests, induced Mr. Clay, before resigning his seat in the senate, to propose an amendment of the constitution, limiting the power of the president in this respect, on which subject he addressed the senate as follows. There were also two other resolutions submitted by Mr. Clay, having in view the same object — namely, the reduction of executive power within proper limits; first, that no senator or representative should be appointed to any office under the United States during the term for which he was elected; second, the secretary of the treasury to be chosen by congress.]

WHATEVER, said Mr. Clay, might be the ultimate fate of the

gentleman. He adverted to this fact for no other purpose than to repel the idea, if it were entertained in the mind of any who now heard him, that the amendment now under consideration, and the others which accompanied it, had been suggested by recent occurrences. As far back as June, 1840, on one of the most solemn occasions in which he had ever been called to address a popular assembly — he alluded to the time when he enjoyed the opportunity of addressing the friends of his youth, and the people of his native county of Hanover, on the subject of the duties to be looked for at the hands of the new whig administration, which was expected to come into power, in consequence of the glorious and universal triumph of the whig party at the then approaching election — he had placed emphatically, and in front of them all, that which formed the subject of the present resolution. After speaking of the veto power generally, and more particularly of its exercise by a late president of the United States, the speech proceeded to say:

'The first, and, in my opinion, the most important object which should engage the serious attention of a new administration, is that of circumscribing the executive power, and throwing around it such limitations and safeguards as will render it no longer dangerous to the public liberties.

'Whatever is the work of man, necessarily partakes of his imperfections; and it was not to be expected, that, with all the acknowledged wisdom and virtues of the framers of our constitution, they could have sent forth a plan of government so free from all defect, and so full of guarantees, that it should not, in the conflict of embittered parties, and of excited passions, be perverted and misinterpreted. Misconceptions, or erroneous constructions of the powers granted in the constitution, would probably have occurred, after the lapse of many years, in seasons of entire calm, and with a regular and temperate administration of the government; but, during the last twelve years, the machine, driven by a reckless charioteer, with frightful impetuosity, has been greatly jarred and jolted, and it needs careful examination, and thorough repair.

'With this view, therefore, to the fundamental character of the government itself, and especially of the executive branch, it seems to me that, either by amendments of the constitution, when they are necessary, or by remedial legislation, when the object falls within the scope of the powers of congress, there should be,

'First, a provision to render a person ineligible to the office of president of the United States after a service of one term. Much observation and deliberate reflection have satisfied me, that too much of the time, the thoughts, and the exertions of the incumbent are occupied, during his first term, in securing his reëlection. The public business, consequently, suffers; and measures are proposed or executed with less regard to the general prosperity, than to their influence upon the approaching election. If the limitation to one term existed, the president would be exclusively devoted to the discharge of his public duties; and he would endeavor to signalize his administration by the beneficence and wisdom of its measures.

'Secondly, that the veto power should be more precisely defined, and be subjected to further limitations and qualifications.'

Thus, it would be perceived by the senate, that whatever truth or soundness there might be in the opinion which he had embodied in the resolution now submitted to the senate, it was an opinion long since deliberately formed and expressed, and one which had often since been considered and reviewed, unprompted by any of those recent occurrences to which it might otherwise have been supposed to owe its origin.

The particular amendment now before the senate, for its con-

sideration, and to which he should speak before he more briefly adverted to the others which accompanied it, was that which related to the veto power. And while on this subject of redeeming the pledge which was, in some sort, given by him as one of the humblest members of that party which had not long since so signally triumphed, he hoped the senate would allow him, in all truth and sincerity, to say, that he desired to see a party, when it came into power, redeem the pledges and fulfil the promises it made when out of power, and not exhibit that disgraceful spectacle so often witnessed in the political history of other nations, of professing one set of principles, and employing them as a means towards getting into power, and then, when successful in obtaining their wishes, turn round, forget all they had said and promised, and go on to administer the government just as their predecessors had done. He could assure gentlemen, that, on the questions of restraining and limiting executive power, on the necessity of an economical administration of the government, on regulating the dismissing power of the president, on securing a fair and just responsibility in all the departments; in a word, on every great question of national policy to which the party to which he considered himself as belonging were pledged to the people, and to the world; they would find him, on all occasions during the short time in which he expected to remain a member of the body, heartily ready to coöperate in carrying out into practice all they had

the colonial state of this country, the power was transplanted, from the experience which had been had of it in Europe, to the laws relating to the colonies, and that in a double form; for there was a veto of the colonial governor, and also a veto of the crown. But what was thought of this power by the inhabitants of these states, when rising to assert their freedom, might be seen in the words of the instrument in which they asserted their independence. At the head of all the grievances stated in that paper, as reasons for our separation from Great Britain, was placed the exercise of this very power of the royal veto. Speaking of the king, the declaration of independence employed this language.

'He has refused his assent to laws the most wholesome and necessary for the public good. He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operations, till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.'

No doubt, the idea of ingrafting this power upon our own constitution, was adopted by the convention, from having always found it as a power recognised in European governments, just as it had been before derived by them from the practice and history of Rome. At all events, the power was inserted as one feature, not only in the general constitution of the federal government, but also in the constitutions of a portion of the states. Fifty years had now elapsed since the federal constitution was formed, and it was no derogation to the wisdom and patriotism of the venerable men who framed it, now to say, that the work of their hands, though as perfect as ever had proceeded from human hands, was, nevertheless, not absolutely so; because that was what nothing that sprung from man had ever been. But now, after the lapse of half a century, it was interesting to pause, to look back, to review the history of that period, and to compare the predictions of those who then looked into the future, with the actual results of subsequent experience. Any one at all acquainted with the contemporaneous history of the constitution, must know, that one great radical error, which possessed the minds of the wise men who drew up that instrument, was, an apprehension that the executive department of the then proposed government would be too feeble to contend successfully in a struggle with the power of the legislature; hence, it was found that various expedients had been proposed in the convention, with the avowed purpose of strengthening the executive arm; one of which went so far as to propose that the president should be chief magistrate for life. All these proposals had their origin in the one prevailing idea — that of the weakness of the executive, and its incompetence to defend itself against the encroachments of legislative domination and dictation.

Now, let any man look at the actual working of the machine they constructed, and see whether the anticipations which haunted

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foreign powers often experienced great inconvenience; he meant the amendments of treaties by the senate, after they were at length submitted. So great had the inconvenience from this source been, that, in more recent treaties, it had come to be the practice to insert, in the body of the treaty itself, a provision against all alteration; so that it must be ratified in its existing form, or not ratified at all.

The next executive encroachment he should notice, was that which occurred in the dismissal from office of persons appointed by and with the consent of the senate. The effect of this practice was virtually to destroy all agency and coöperation of the senate, in such appointments. Of what avail was it that the senate should to-day solemnly ratify and confirm the appointment of an individual to an office under the government, when the president could to-morrow reverse the effect of their act by his mere breath? Every one knew that the power of removal had been grossly perverted. In the early days of the constitution, it had been maintained, that that power could be exercised only in case of malfeasance or misfeasance in office; and that the president who should dare to employ it for any other end, would subject himself to impeachment. But our history and experience has gone to show, that this liability to impeachment was a mere scarecrow, and that it could never have any practical effect in a popular government, constituted as ours was, and in a country politically divided as ours was ever like to be. By the free exercise of this power of removal, the senate had lost its practical influence on the whole subject of appointment to office. Instance after instance had occurred, where an individual had been dismissed by the executive, whom the senate would gladly have replaced in office, but whom they were unable to retain there, and were therefore compelled to sanction the nomination of a successor. The actual result of such a state of things was, he repeated it, that the coöperation of the senate with the president, in the matter of appointments, had been almost completely nullified for years past. Indeed, so perfectly was this understood, that when the senate were deliberating with closed doors, on executive nominations, Mr. Clay frequently walked out of the chamber. Deliberation, in such a case, was one of the idlest things in the world, because every one knew that all resistance must be unavailing. And, even should the objections against the nominee be so gross and undeniable that resistance to his appointment should succeed, they might generally calculate on another nomination, not more to the taste of the senate; and when at length the office was filled, the tenure of the incumbent was not on the joint will of the president and senate acting together, but upon the single will, upon the mere arbitrary breath of one man.

Mr. Clay said, it was not his purpose to go into all the details of these encroachments by the executive, upon the constitutional powers and prerogatives of a single legislative branch of the

government. He would now pass to its attacks on the powers of the congress of the United States.

And the first instance of this to which he should refer, was the creation of officers and the designation of their salaries, without the consent of congress, or any consultation with it. Another, and a more formidable instance, was to be found in the assumption within the last few years, of the purse of the nation. He alluded, as every body must understand, to the seizure made by a late executive, of the public deposits placed by law in the bank of the United States — a removal which had been effected under the avowed claim of power to employ the prerogative of removal as a means to compel subordinate executive officers to comply with the will of the president, on the principle that the executive was a unit, and that a single will must control the entire executive department. This seizure of the public deposits had yet been unprovided against; the congressional power to control them had been unresumed, and thus a state of things was permitted to continue, by which the nation was virtually placed at the feet of the executive.

Let not gentlemen mock him, by talking about the impossibility of the president's drawing money out of the treasury, except under an appropriation by congress. Let them not tell him of the responsibility of public officers; let them look at facts; let them look at what had actually occurred, on the removal of two or three secretaries of the treasury, in order to accomplish this very seizure of the public treasure; and then let them look at the dismissal of a

Without, therefore, going any further, Mr. Clay said, that he thought a careful review of the operations of this government, down to the present havoc, would fully demonstrate that, while it had made no encroachment on the states, there had been a constant encroachment by the executive on the legislative authority.

And was not this in the nature of things? The executive branch of the government was eternally in action; it was ever awake; it never slept; its action was continuous and unceasing, like the tides of some mighty river, which continued flowing and flowing on, swelling, and deepening, and widening, in its onward progress, till it swept away every impediment, and broke down and removed every frail obstacle which might be set up to impede its course. Let gentlemen look at all history, and they would find that it had ever been so. The legislative branch of government met only periodically; its power lay in its assembling and acting; the moment it adjourned, its power disappeared; it was dissipated, gone; but there stood the president at the head of the executive department, ever ready to enforce the law, and to seize upon every advantage which presented itself, for the extension and augmentation of its power.

And now he would, upon principle, examine for a few moments the motives which might be supposed to have actuated the members of the convention, in conferring upon the executive this veto power. Let us throw ourselves back to the period in which they lived and acted, and then institute a comparison between the expectations in which they had indulged, and the actual facts, as they had since occurred.

On principle, certainly, the executive ought to have no agency in the formation of laws. Laws were the will of the nation authoritatively expressed. The carrying of those laws into effect was the duty which ought to be assigned to the executive, and this ought to be his sole duty, for it was an axiom in all free governments that the three great departments, legislative, executive, and judicial, should ever be kept separate and distinct. And a government was the most perfect when most in conformity with this fundamental principle. To give, then, to the executive, any agency in the ascertainment and expression of the will of the nation, was so far a violation of this great leading principle. But it was said that the framers of our constitution had, nevertheless, been induced to place the veto upon the list of executive powers, by two considerations; the first was a desire to protect the executive against the power of the legislative branch, and the other was a prudent wish to guard the country against the injurious effects of crude and hasty legislation. But where was the necessity to protect the executive against the legislative department? were not both bound by their solemn oaths, to support the constitution? The judiciary had no veto. If the argument was a sound one, why was not the same

protection extended to the judiciary also? Was there not ample security against the encroachments of the legislative power, in the absence of the veto? First, there was the solemn oath of office; then there was the authority of the judiciary; then there was the responsibility of individual members to the people, and this responsibility continually kept up by a frequent appeal to the people; and, lastly, there was the ultimate conflict of the president and the legislature before the grand tribunal of the nation itself, in case of any attempt, by the legislature, to deprive him of the rightful exercise of his authority. Besides, if a veto be necessary, as a defence against legislative power, why was there no veto against the highest description of all legislation, the fundamental legislation by a convention? There was no veto there; there was no apprehension of hasty action; no necessity was recognised for the controlling will of one man to save the nation from the heedless acts of its own representatives. But in the case of ordinary legislation, why should such apprehensions be indulged? On this subject, experience was our safest guide. Now, Mr. Clay had taken the pains to look into the provisions of twenty-six state constitutions, in relation to this matter of the veto, and the result was highly curious and interesting. The states were in this respect divided, as equally as their number would admit, into three distinct classes. Nine of them gave to the executive the veto power, unless controlled by two thirds of the legislature. Eight other states

Now, before he proceeded further, he invited gentlemen to form a just estimate of this veto power; to look at it; to see what it was; to ascertain what was its value, what it amounted to in the practical operations of government. He should not pretend to go into any inquiry as to its moral value, or to estimate its influence on the individual who exercised it, or the degree and extent to which, by means of it, in connection with a vast patronage, the president could sway the minds of other men, for that was a power which admitted of no estimate. He should confine himself to what might be called a mere numerical estimate of the amount of the veto power, and he would make this estimate by taking the numbers of the two houses of congress, as those houses now stood. The senate at present consisted of fifty-two members; of that number a majority consisted of twenty-seven; two thirds amounted to thirty-six. Supposing a law to be passed by a bare majority, (and in all great and contested questions bills were wont to be passed by very small majorities,) then there would be in its favor twenty-seven votes. The bill was submitted to the president, and returned by him with his veto. The force of the presidential veto could not be overturned but by thirty-six votes. Here, then, the veto in the hands of the president was equal in its effect upon legislation to nine senatorial votes. Mr. Clay dismissed all considerations of influence derived from his office, all the glitter and eclat of the president's high station, and all the persuasion directed to the interests of men by his vast patronage; all this he laid out of view, and looked merely at the numerical fact, that in the senate the veto was equal to nine votes. And now in regard to the other branch. The house of representatives consisted of two hundred and forty-two members; to constitute a majority required one hundred and twenty-two; two thirds amounted to one hundred and sixty-two. By looking at this difference, it would be seen, as in the case of the senate, that the executive veto amounted in effect to forty representative votes.

Now Mr. Clay did not mean to say any thing in the least derog atory to the wisdom, or fairness, or integrity, or patriotism of any president of the United States. It was not necessary, and he was utterly unwilling, without necessity, to injure the feelings of any man. We had had six presidents who had previously been senators. They were able and eminent men; but he wished to inquire, whether any gentleman could show that their wisdom and other distinguished qualities had been so great as to be equal to the wisdom of nine other senators? Could it be shown that their patriotism, and intelligence, and integrity, were equal to those of forty members of the house of representatives? If not, how did it happen that a man who, when in that chamber, and acting with his fellow senators, had been considered upon a par with them, was no sooner transferred to the other end of the avenue, than his

will became equal to that of nine senators and forty representatives? How, he asked, did this happen, and wherein was it just and right? Was it not sufficient, that this man, after his political apotheosis, should enjoy all the glitter, and distinction, and glory attached to his office? Was it not enough that he wielded so vast and formidable an amount of patronage, and thereby exerted an influence so potent and so extensive? Must there be superadded to all, a legislative force equal to nine senators and forty members of the house of representatives?

Again: let the subject be looked at in another point of view; and that was with reference to the balance of power among the states. Now, gentlemen might reason as they pleased about what a particular president would, or ought to do, but Mr. Clay would answer for it, that he would never forget, amid the splendor of his high station, the state from whence he came, the early associations, the friendly sympathies, the remembrance of honors, and all those other ties which bound every man, especially a public man, to the land and to the people among whom he had spent his youth and attained the honors of his manhood. All these considerations would operate as so many powerful motives to prefer, in the distribution of benefits, his own state before all others. Looking at this in a political view, was it right, was it just, to give to one particular state, in which the president happened to have been born, so great an advantage in the general competition as must be

In such circumstances, when all the personal influence, the official patronage, and the reasoning which accompanied the veto, were added to the substantial weight of the veto itself, every man acquainted with human nature would be ready to admit, that if nothing could set it aside but a vote of two thirds in both houses, it might as well have been made absolute at once.

But Mr. Clay was unable to dwell on this part of his subject, being warned by his feelings of a want of physical ability to go at large into the subject.

He now, however, approached another view of it, to which he would ask the serious and undivided attention of the senate. The veto power professed to act only while the legislature acted; then it was to terminate. Its effect was to be, to consummate legislation. The officer of government, in whose hands the constitution placed a power so formidable, was supposed in theory to remain profoundly silent as to the passage of great measures of public policy, until they were presented to him in a finished form for his approbation and sanction.

This was the theory; but Mr. Clay contended, that really and in practice this veto power drew after it the power of initiating laws, and in its effect must ultimately amount to conferring on the executive the entire legislative power of the government. With the power to initiate and the power to consummate legislation, to give vitality and vigor to every law, or to strike it dead at his pleasure, the president must ultimately become the ruler of the nation.

When members, acting in their legislative capacity, knew and remembered that it was in the power of one man to arrest them in their legislative career, what was the natural tendency of such a state of things? On the established principles of our nature, how was this likely to work? Would not legislators, with gradually less and less attention to that delicacy, reserve, and official deference, which were ever due from one department of government towards the other, come at length to consult with the executive as to what law they might pass with the hope of his approbation? Would not this be the natural result? Independently of all those obvious and glaring considerations, which went to show that it must, Mr. Clay would point to numerous facts illustrative of the position; and if he went into them, it would be not with a view to complain, not with a desire to revive former contests, or to say a word which might rudely wound the feelings of any human being. But did not gentlemen recollect, how often, during the administration of an eminent individual, now in private life, intimations had been given beforehand, that a certain bill would be vetoed, if it were passed? And did they not remember various instances, in which the threat had been fulfilled? Take the experience of the last six months. Congress have passed two bills to establish a bank of the United States; bills, in all the provisions of which

neither party concurred, and which would not have had the concurrence of twenty men in either house, had their minds been left uninfluenced by the expected action of the executive. Take, as a special instance, the famous sixteenth section of one of those bills. Mr. Clay was free to declare, that he did not know a solitary man among those who voted for the bill, who would have voted for that section, but as a measure of conciliation, and in the hope that, so modified, the bill would receive the sanction of the president. True, that expectation was not realized; the sacrifice was vainly made, but it had been made with a view to that end, and that alone. And so in regard to the second of those bills. That bill, as he was informed, came to congress, precisely as it had left the president's hand. So anxious had congress been, to secure the approbation of the president, that, although almost every thing in the bill would either have been omitted, or amended by a majority, they took it as it came from the presidential hand, and passed it, letter for letter, as they received it. Without going further, did not this fact prove, that the possession of the veto power drew after it the power of initiating laws.

Take another case, in the bill now before the judiciary committee. Was there one man to be found, in either house of congress, who would ever have proposed such a measure as the exchequer board provided in that bill? Yet, what had been the feeling? Had it not been this; must we go home without doing something? Had not

Mr. Clay said, that, as he had not the bodily strength to dwell more at large on the general subject, he would now proceed to examine the objections which were urged against any further restrictions on this executive power.

There had gotten up a notion, of late years, that some curb was necessary upon the power of majorities, and that without this the safety of the country must be in danger. Now, on what grounds had the principle been founded, that in a free government the majority must govern? On two grounds. The first was of an intellectual and moral character. It was right, that in a great public, political partnership, the greater number should be satisfied with what was done, and that there was a greater chance of wisdom in complying with the will of the greater number. On the score of chances, some must govern, and who should it be? The minority? Why? Because they possessed more wisdom? Why were they likely to possess more wisdom? The second ground was physical in its aspect. It held, that the majority should be allowed to govern, because they would govern, having the physical force which would enable them to carry out their will. Now this doctrine, that minorities must govern, whether with or without the veto, was advanced by gentlemen who professed and called themselves members of the Jeffersonian school. But what was the doctrine of Mr. Jefferson himself, in regard to majorities, and so declared by him forty years ago? (Here Mr. Clay read an extract from Jefferson's works, in which it was broadly laid down, that an absolute acquiescence in the will of majorities, was necessary in a free republican government.)

But there were some particular interests, and *one* especially, in regard to which the south felt great solicitude, which it was supposed would be more safe under the continuance of the veto power, than without it. Now, in the first place, Mr. Clay saw no difference, in respect to safety, between that particular interest, and other interests of the country. If it was true, that any one interest would be more secure under the veto power than without it, then all interests would be more secure; but if no security was produced by the veto, then that particular interest would not be more secure by the veto. Just as well might gentlemen from the north rise up and say, that the navigating interest, (in regard to which they were, perhaps, more interested,) would be more secure under the veto power, or the friends of any interest, northern, southern, or western, might fancy that it would be more secure. But the question came at last to this; is the veto a necessary power, or is it not? If it is necessary, it is necessary to all; if not, it is necessary to none.

What was the security which the south would possess in this veto power? Sooner or later, the president would be in a majority himself. But if a majority of congress should put itself in opposition to the interest of the south, neither presidents, nor vetoes, would

avail to protect it. Its own resolution, its own valor, its own indomitable determination to maintain its rights against all men, these, and these alone, could in that case uphold southern interests.

Meanwhile the people of the south had all requisite guarantees. First, they had the sacred provisions of the constitution; and then they had the character of our government as a confederacy, the existence of these interests long before the adoption of the constitution, and the rights and duties of the government in regard to them, recognised and laid down by that sacred instrument. That was the security of the south. As one who himself lived where that peculiar interest existed, he possessed no security from the existence of the veto power; none, none whatever. He felt himself secure in that mutual harmony, which it was alike the interest of all to cultivate, in the constitutional securities, and in the certainty of the disruption of the union, as the inevitable result, the moment that interest should be assailed; in the capacity and determination of the south to defend herself at all hazards, and against all forms of attack, whether from abroad or at home. There, there, was the security, and not in this miserable despotic veto power of the president of the United States.

Mr. Clay went on to say, that the amendment which he had the honor of proposing to the senate, was encountered by arguments which were directly opposed to each other. He was told by one, that this power was a sacred thing, not lightly to be touched, but

States, Mr. Clay admitted, that if his friend from Virginia, (Mr. Archer,) could succeed in establishing what Mr. Clay had attempted years ago to demonstrate — that congress did possess the constitutional power to define the tenure of office, and to defend it against the power of dismission — there would, to be sure, be less necessity for making a special provision in regard to these two officers. But still, for greater security, Mr. Clay should prefer to have the appointment of the treasurer and the secretary explicitly placed in the hands of congress.

Mr. Clay observed, that if there was any sentiment in relation to public affairs, on which the people of this country had made up their minds, it was in regard to the necessity of limiting executive power. Its present overgrown character had long been viewed by them with apprehension. The power was not personal, it was mainly official. You might take a mechanic from the avenue and make him president, and he would instantly be surrounded with power and influence, the power and the influence of his office. It was very true, that the personal popularity of an incumbent might add much to his power, but the power itself was official, not personal, and its danger arose from its tendency and ability to accumulate. This was demonstrated by all past history, and was witnessed by all we saw around us. All these considerations called upon senators in the language of patriotism deeply to reflect on the consequences which might ensue, should not a power so great in itself, and so prone to increase, be subjected to some salutary limitation.

Let not gentlemen deceive themselves by names. The unpretending name, president of the United States, was no security against the extent or the abuse of power. The power assigned to a public individual did not depend on the title he might bear. The danger arose not from his name, but from the quantum of power at his command. Whether he were called emperor, dictator, king, liberator, protector, sultan, or president of the United States, was of no consequence at all. Look at his power; that was what we had to guard against. The most tremendous power known to antiquity was the shortest in duration. It was not, then, in duration, any more than in title, that the danger lay, but in the magnitude of the power. This called for every safeguard. The dictatorship of Rome continued but for a brief period; yet, while it lasted, the whole state was in his hands. He did whatever he pleased, whether with life, liberty, or property. We had, then, no security against the power of the president of the United States in the shortness of the term for which he was chosen.

We often found very pathetic reflections in the writings of scholars, on the sad condition of kings; on the isolation of their thrones; on the effect of their station in removing them from the body of society, where no voice could reach them but the voice of

flatterers, and where they were perpetually surrounded by the incense of adulation; and the chief ground of sympathy seemed to be, the impossibility that truth should reach their ears. It might be said, that this was true of kings, but did not apply on this side of the water; but let Mr. Clay tell those who thought so, that the actual condition of a president of the United States did not very widely differ from that of the monarchs of the old world. Here, too, the chief magistrate occupied an isolated station, where the voice of his country and the cries of its distress could not reach his ear. He, too, was surrounded by a cordon of favorites, flatterers, and fawns. Isolated in this district, with no embarrassments himself, the echoes of the public distress, if they reached his ear at all, reached it with a faint and feeble sound, being obstructed by those who surrounded his person, and approached him only to flatter. Facts were boldly denied, and all complaints attributed to a factious spirit. Now, he would ask, was a man thus separated, and thus surrounded, more likely to know the real sufferings, wants, and wishes of his countrymen, than the two hundred and forty-two men in the other house, or the fifty-two men in this house, who came up here directly from their bosom, who shared in all their sufferings, who felt their wants, participated in their wishes, and sympathized with all their sorrows? That was the true question of the veto power. Now he thought if these things were duly considered, (and he spoke not of this or of that incumbent of the

The other, relating to the appointment of members of congress to office, only went, in effect, to carry out the principles already sanctioned by that article of the constitution, which declares, that no member should be appointed to an office which had been created, or the emoluments of which had been increased with his concurrence. This went one step further, and declared, that no member should be appointed to an office which had been created with or without his concurrence, before or after he was a member. Whenever a man accepted an office which he was reasonably expected to hold, for a definite term, he should continue to hold it for that entire period, unless some very strong reason existed to the contrary, and which had not existed prior to his appointment.

There was one concluding remark on the amendment at present before the senate, with which he would close what he had now to say. Although he admitted, that the principles he had laid down would, if carried fairly out, lead to the abolition of the veto altogether, as inconsistent with the fundamental axiom of free government, yet he was of opinion, that this, like other reforms, should be introduced slowly, and with circumspection, without suddenly rushing from one extreme to another. Before the power should be utterly abolished, he deemed it prudent, that an experiment should be made in a modified form; and instead of requiring a majority of two thirds of both houses to supersede the veto of the president, he thought it sufficient to require the concurrence of a majority of the whole number of members elected to each house of Congress.

He asked, whether this would not afford a sufficient security against the dangers of hasty legislation; and, in confirmation of its sufficiency, he would appeal to what had been the experience of all the states, where such a provision had been adopted. If a bill, after having undergone a full investigation and discussion, should pass both houses, and be transmitted to the president for his signature, and he should return it with his veto, and the reasons for that veto, and it should then be again considered and fully discussed, in view of the objections urged against it by the executive, (to say nothing of the whole influence derived from his office, and all that pertained to it,) and still there should be found a clear majority, not of a quorum present, but of the total number of members chosen by the people, was not the presumption irresistible, that the bill ought to become a law? Surely, surely, this was a sufficient evidence of the will of the people, and an abundant safeguard against the hazardous consequences of hasty and ill-advised legislation.

# ON THE COMPROMISE TARIFF.

IN THE SENATE OF THE UNITED STATES, FEBRUARY 18, 1842.

[ MR. CLAY, in presenting a memorial from citizens of Pennsylvania, in relation to the tariff, and in opposition to the tariff act, took occasion, as requested by the memorialists, to express his views in regard to the subject, briefly, as follows. ]

Two motives had operated on my mind, and I believe on the minds of others, to induce them to concur in the passage of the law, (of 1833.) The first was, to avert the calamity of civil war, the fire of which having been lighted up in South Carolina, threatened to extend its flames over the whole union; the second was, to preserve from utter destruction the system of protection which Pennsylvania favored, when the law was passed; and I

for the interests of Pennsylvania, to go beyond a revenue tariff, for the purpose of obtaining protection, then I hope that every senator and representative from that state, and those of other states, and other interests, who think it necessary to transcend the revenue, will take up this subject of protection, and carry it to the point which their local interests demand.

In reply to Mr. Calhoun, Mr. Clay combated the idea of that senator, that the tariff had created the embarrassments which had existed for a long time in the country. He referred the senator to the discussions upon the tariff acts, for the purpose of showing that the reverse was true. If the senator would look to the tariff acts of 1824, '28, '32, and the compromise act of 1833, he would find that the revenues of the country had never been more from these acts, than the expenditures of government. The whole surplus revenue, about which so much had been heard, and which was attributed to the protective policy, originated exclusively in the extensive land sales, which had swelled in one year to the enormous amount of twenty-six millions of dollars. These excessive sales alone, had exceeded the amount of the surplus revenue which had ever been brought into the treasury.

Hereafter, I shall be able to show, that it will be impossible to stand by the twenty per centum, even by withdrawing the whole of the land fund from its appropriated purpose of distribution, and placing it in the treasury.

# THE TARIFF, AND OTHER MEASURES OF PUBLIC POLICY.

## IN SENATE OF THE UNITED STATES, MARCH 1, 1842.

[HAVING previously announced his determination to retire from public life, by resigning his seat in the senate, Mr. Clay submitted for the consideration of that body a series of resolutions; which, being taken up at this date, he supported in the following speech, in the course of which, the resolutions are recapitulated and explained. They relate to the tariff, and other measures of public policy, which, in his view, should be adopted, to restore the prosperity of the nation. Although these views, and the prospects of the whig party which supported them, have been but partially carried out under the administration of president Tyler, owing to the adverse position in which the president placed himself towards the party which elevated him to power; yet, it is interesting to observe the line of policy marked out by a statesman, of the enlarged views and great experience of Mr. Clay — a line of policy worthy of being transmitted to posterity, as a guide and landmark for the future legislators of the republic.]

MR. PRESIDENT,

The resolutions which have just been read, and which are to form the subject of the present discussion, are of the greatest

if he is a judicious man, does not begin to plough till he has first laid off his land, and marked it off at proper distances, by planting stakes, by which his ploughmen are to be guided in their movements; and the ploughman, accordingly, fixes his eye upon the stake opposite to the end of the destined furrow, and then endeavors to reach it by a straight and direct furrow. These resolutions are my stakes.

But, before I proceed to examine them, let me first meet and obviate certain objections, which, as I understand, have been or may be urged against them generally. I learn that it is said of these resolutions, that they present only general propositions, and that, instead of this, I should at once have introduced separate bills, and entered into detail, and shown in what manner I propose to accomplish the objects which the resolutions propose. Let me here say, in reply, that the ancient principles and mode of legislation which has ever prevailed from the foundation of this government, has been to fix first upon the general principles which are to guide us, and then to carry out these principles by detailed legislation. Such has ever been the course pursued, not only in the country from which we derive our legislative institutions, but in our own. The memorable resolution offered in the British house of commons, by the celebrated Mr. Dunning, is no doubt familiar to the mind of every one — that 'the power of the crown (and it is equally true of our own chief magistrate) had increased, was increasing, and ought to be diminished.' When I was a member of another legislative body, which meets in the opposite extremity of this capitol, it was the course, in reference to the great questions of internal improvement, and other leading measures of public policy, to propose specific resolutions, going to mark out the principles of action which ought to be adopted, and then to carry out these principles by subsequent enactments. Another objection is urged, as I understand, against one of these resolutions, which is this: that, by the constitution, no bill for raising revenue can originate any where but in the house of representatives. It is true, that we cannot originate such a bill; but, undoubtedly, in contemplating the condition of the public affairs, and in the right consideration of all questions touching the amount of the revenue, and the mode in which it shall be raised, and involving the great questions of expenditure and retrenchment, and how far the expenses of the government may safely and properly be diminished, it is perfectly legitimate for us to deliberate and to act as duty may demand. There can be no question but that, during the present session of congress, a bill of revenue will be sent to us from the other house; and if, when it comes, we shall first have gone through with a consideration of the general subject, fixing the principles of policy proper to be pursued in relation to it, it will greatly economize the time of the senate, and proportionably save a large amount of the public money.

lead to pernicious consequences.'

I have heard it asserted, that so, I regret to say, that it is one depart, and from which this g during the last five years. Has within each of those years, to m same years? No; far otherwis

In 1837, at the called session amount of taxes on the free arti the compromise act, what was t treasury notes. And the same ever since adopted, from year to And, of necessity, this policy ca ing, an unascertained, unliquid necessity on that administration of supply.

I do not advert to these facts or recrimination. Far from it. the public affairs when the coun when, as I earnestly hope and t dispense with our party preju measure proposed for the public I say, then, that during the four Van Buren, there was an exces of the government, to the am millions of dollars; and I say t tration, the moment they found to have resorted to the adequat amount of taxes on the free a deficiency.

I shall say nothing more on

'That such an adequate revenue cannot be obtained by duties on foreign imports, without adopting a higher rate than twenty per centum, as provided for in the compromise act, which, at the time of its passage, was supposed and assumed as a rate that would supply a sufficient revenue for an economical administration of the government.'

The third resolution concludes,

'That the rate of duties on foreign imports ought to be augmented beyond the rate of twenty per centum, so as to produce a net revenue of twenty-six millions of dollars — twenty-two for the ordinary expenses of government, two for the payment of the existing debt, and two millions as a reserved fund for contingencies.'

The fourth resolution asserts,

'That, in the adjustment of a tariff to raise an amount of twenty-six millions of revenue, the principles of the compromise act generally should be adhered to; and that especially a maximum rate of ad valorem duties should be established, from which there ought to be as little departure as possible.'

The first question which these resolutions suggest, is this: what should be the amount of the annual expenditures of this government? Now, on this point, I shall not attempt, what is impossible, to be exact and precise in stating what that may be. We can only make an approximation. No man, in his private affairs, can say, or pretends to say, at the beginning of the year, precisely what shall be the amount of his expenses during the year; that must depend on many unforeseen contingencies, which cannot, with any precision, be calculated beforehand; all that can be done is to make an approximation to what ought to be or what may be the amount. Before I consider that question, allow me to correct, here, an assertion made first by the senator from South Carolina, (Mr. Calhoun,) and subsequently by the senator from Missouri near me, (Mr. Linn,) and I believe by one or two other gentlemen, namely, that the whig party, when out of power, asserted that, if trusted with the helm, they would administer this government at an amount of expenditure not exceeding thirteen millions of dollars. I hope, if such an assertion was actually made by either or all of these gentlemen, that it will never be repeated again, without resorting to proof to sustain it. I know of no such position ever taken by the whig party, or by any prominent member of the whig party. Sure I am that the party generally pledged itself to no such reduction of the public expenses — none.

And I again say that I trust, before such an assertion is repeated, the proofs will be adduced. For in this case, as in others, that which is asserted and reiterated, comes at last to be believed. The whig party did promise economy and retrenchment, and I trust will perform their promise. I deny (in no offensive sense) that the whig party ever promised to reduce the expenditures of this government to thirteen millions of dollars. No; but this was what they said: during the four years of the administration of Mr. Adams, the average amount of the public expenditure was but

thirteen millions, and you charged that administration with outrageous extravagance, and came yourselves into power on promises to reduce the annual expenditure; but, having obtained power, instead of reducing the public expenses, you carried them up to the astonishing amount of near forty millions. But, while the whigs never asserted that they would administer the government with thirteen millions, our opponents, our respected opponents, after having been three years in power, instead of bringing the expenses below the standard of Mr. Adams's administration, declared that fifteen millions was the amount at which the expenditures should be fixed. This was the ground taken by Mr. McLane, when he was at the head of the treasury. I have his report before me; but as the fact, I presume, will not be denied, I forbear to read from it. He suggests, as the fit amount to be raised by the tariff he had proposed, the sum of fifteen millions of dollars as sufficient to meet the wants of the government.

I hope now I have shown that the whig party, before they obtained power, never were pledged to bring down the public expenses, either to thirteen or to fifteen millions. They were pledged, I admit, to retrench unnecessary expenditures, and to make a reasonable deduction, whenever it could properly be made, consistently with the public service; that process, as I understand, is now going on in both houses, and I trust the fruits will be seen before the end of the present session.

Unpledged, therefore, as the whig party was as to any specific

million, six hundred and forty thousand dollars — being a sum greater than the whole average expenditure of the extravagant and profligate administration of Mr. Adams, which they told us was so enormous that it must be reduced by a great 'retrenchment and reform.'

I am not here going to inquire into the items which composed the large expenditures of the four years of Mr. Van Buren's administration. I know what has been said, and will again be said, on that subject — that there were many items of extra expenditure, which may never occur again. Be it so; but do we not know that every administration has its extras, and that these may be expected to arise, and will and must arise, under every administration beneath the sun? But take this also into view in looking at the expenses of that administration: that less was expended on the national defence, less in the construction or repair of fortifications, less for the navy, and less for other means of repelling a foreign attack, than, perhaps, ought to have been expended. At present we are all animated with a common zeal and determination on the subject of defence; all feel the necessity of some adequate plan of defence, as well upon the ocean as the land, and especially of putting our navy and our fortifications in a better state to defend the honor and protect the rights of the nation. We feel this necessity, although we all trust that the calamity of a war may be averted. This calls for a greater amount of money for these purposes than was appropriated under Mr. Van Buren's administration; beside which, in the progress of affairs, unforeseen exigencies may arise, and do constantly occur, calling for other appropriations needed, which no man can anticipate. Every ministry in every government, every administration of our own government, has its extraordinaries and its contingencies; and it is no apology for Mr. Van Buren's administration to say, that the circumstances which occasioned its expenditures were extraordinary and peculiar. Making all the allowances which its warmest friends can ask for the expenses of the inglorious war in Florida — a contest which has profusely wasted not only the resources of the treasury, but the best blood of the nation — making the amplest allowance for this and for all other extras whatever, the sum expended by the last administration still remains to be far, far beyond what is proposed in these resolutions, as sufficient for the present, and for years to come. It must, in candor, be conceded that this is a very great diminution of the national expenditure; and such, if nothing else were done, would redeem the pledge of the whig party.

But let us now consider the subject in another light. Thirteen millions was the average annual amount of expenditure under Mr. Adams's administration, which terminated thirteen years ago. I should be authorized, therefore, to take the commencement of his administration, in 1825, being a period of seventeen years, in

making a comparison of the progressive increase of the national expenditures; or, at all events, adding one half of Mr. Adams's term, to take the period as running fifteen years back; but I shall not avail myself of this perfectly fair calculation; and I will therefore say, that at the end of thirteen years, from the time when the expenditures were thirteen millions, I propose that they be raised to twenty-two millions. And is this an extraordinary increase for such a period, in a country of such rapid increase and development as this is? What has occurred during this lapse of time? The army has been doubled, or nearly so; it has increased from a little over six thousand men to twelve thousand. We have built six, eight, or ten ships of the line; (I do not recollect the precise number;) two or three new states have been added to the union; and two periodical enumerations have been made to the national population; besides which, there have been, and yet are to be, vast expenditures, on works of fortification and national defence. Now, when we look at the increase in the number of members in both houses of congress, and consider the necessary and inevitable progress and growth of the nation, is it, I ask, an extraordinary thing, that, at the end of a period of thirteen years, our expenditures should increase from thirteen to twenty-two millions? If we take the period at seventeen years, (as we fairly may,) or at but fifteen years, the increase of expenses will be found not to go beyond the proportional increase of our population within the same period. That increase is found

government; and no man, certainly, can be less disposed than I am to deprive him of a single feather which he thinks he put in his cap by that operation. But what does he tell us was his experience in this business of retrenchment? He tells us what we all know to be true — what every father, every householder, especially finds to be true in his own case — that it is much easier to plunge into extravagance than to reduce expenses; and it is preëminently true of a nation Every nation finds it far easier to rush into an extravagant expenditure of the money entrusted to its public agents, than to bring down the public expenditures from a profuse and reckless to an economical standard. All useful and salutary reforms must be made with care and circumspection. The gentleman from South Carolina admits, that the reforms he accomplished took him four years to bring about. It was not till after four years of constant exertion that he was enabled to establish a system of just accountability, and to bring down the expenses of the army to that average per man, to which they were at length reduced. And now, with all his personal knowledge of the difficulties of such a task, was it kind in him, was it kind or fair in his associates, to taunt us, as they have done, by already asking, 'where are the reforms you promised to accomplish when you were out of power?'

[Mr. Calhoun here rose to explain, and observed, that what he had again and again said, on the subject of reforms, was no more than this, that it was time the promised reforms should begin, it was time they should *begin;* and that was all he now asked.]

Very well; if that is all he asks, the gentleman will not be disappointed. We could not begin at the extra session; it could not then reasonably be expected of us; for what is the duty of a new administration, when it first comes into the possession of power? Its immediate and pressing care is to carry on the government; to become acquainted with the machine; to look how it acts in various parts, and to take care that it shall not work injuriously to the public interest. They cannot, at once, look back at the past abuses; it is not practicable to do so; it must have time to look into the pigeon-holes of the various bureaux, to find out what has been done, and what is doing. Its first great duty is to keep the machine of government in regular motion. It could not, therefore, be expected that congress would go into a thorough process of reform at the extra session. Its peculiar object then was to adopt measures of immediate and indispensable relief to the people, and to the government. Besides which, the subsequent misfortunes of the whig party were well known. President Harrison occupied the chair of state but for a single month; and the members of his cabinet left it under circumstances which, let me here say, do them the highest honor. I do not enter upon the inquiry whether the state of things which they supposed to exist did actually exist or not; but, believing it to exist, as they did, their resignation presents

ne of the most signal examples of the sacrifice of the honors and moluments of high station, at great expense and personal incon-enience, and of noble adherence to honor and good faith, which he history of any country can show. But I may justly claim, not nly on behalf of the retiring secretaries, but for the whole whig party, stern adherence to principle, in utter disregard of the spoils loctrine, and of all those baser motives and considerations which ddress themselves to some men with so great a power. I say, then, hat the late extra session was no time to achieve a great, and xtensive, and difficult reform throughout the departments of the government; a process like that can be attempted only during a egular session of congress; and do not gentlemen know that it is ow in progress, by the faithful hands to which it has here and lsewhere in congress been committed? and that an extraordinary ommittee has been raised in this body, insomuch that, to effect it, he senate has somewhat shot from its usual and appropriate orbit, y establishing a standing committee of retrenchment? If the onorable senator from South Carolina took four years to bring lown the expenses of the war department, when under his own mmediate superintendence, I may surely, with confidence, make ny appeal to his sense of justice and liberality, to allow us, at least, wo years, before he reproaches us with a failure in a work so much nore extensive.

I will now say that, in suggesting the propriety of fixing the

And here let me say a single word in defence of the army. The department of war comes to us with estimates for the sum of eleven million, seven hundred and seventeen thousand, seven hundred and ninety-two dollars, and twenty-seven cents; and those who look only on the surface of things, may suppose that this sum is extraordinarily large; but there are many items in that sum. I have before me a statement, going to show, that, of that sum, only four millions are asked for the military service proper—a sum less than is demanded for the naval service proper, and only double the amount at which it stood when the honorable gentleman from South Carolina left the department. The sum was then about two millions of dollars; it is now not quite four millions of dollars; while, during the same period, the army has been nearly doubled, besides the raising of mounted regiments, the most expensive, for that very reason, of any in the service. I think that the gentleman from South Carolina, if he looks into the subject in detail, will find that the cost of the army is not, at this hour, greater per man, than it was when under his own personal administration. So I am informed; and that, although the pay has been raised a dollar a month, which has very largely augmented the expenditure.

The executive branch of the government has sent in estimates amounting in all to twenty-four and a half millions of dollars, for the service of the current year, which, with the million and a half of permanent expenditure, makes twenty-six millions. How much is to be added to that amount for appropriations not yet estimated, which may be made during the session by congress, to meet honest claims, and for other objects of a public nature? I remember one item proposed by my friend near me, (Mr. Mangum,) for a quarter of a million for the building of a steam-ship, an item not included in the estimates, but for which the senate has already appropriated: besides which there are various other items which have passed or will pass during the present session. When the honorable gentleman from New Hampshire was at the head of the treasury, he made, in his communications to congress, constant complaints of this very practice. He well remembers that he was ever complaining that the expenditures of government were swelled far beyond the executive estimates, by appropriations made by congress not estimated for by the departments. I have calculated that we shall add to the twenty-six millions of dollars estimated for the executive departments, or permanently required, at least one million and a half, which would raise the sum for this year to twenty-seven millions and a half.

How then do I propose to bring this down to twenty-two millions? I have, I own, some fears that we shall not be able to effect it; but I hope that we shall so far reduce the estimates and prevent unnecessary appropriations, that the total expenditures shall not exceed that amount. The mode in which I propose to

each such a result is this; I suppose we may effect a reduction of he civil list to the amount of half a million. That general head ncludes, among other things, the expenses of the two houses, and, as I have heard, the other house has already introduced a report which, if adopted, will cut down those expenses one hundred housand dollars, though I think that they should be reduced much nore. I estimate, then, three and a half millions for the civil list, nstead of four millions; then I estimate nine millions for the war lepartment, instead of eleven millions and seven hundred and eventeen thousand dollars. In a conversation which I have lately eld with the chairman of the military committee of this body, he xpressed the apprehension, that it could not be reduced below ten nillions, but I hope it may be cut down to nine. As to the naval ervice, the estimates of the department for that branch of the service, amount to eight millions seven hundred and seven thousand and ive hundred dollars; an amount I think far too high, and indeed quite extravagant. I was greatly astonished at learning the amount vas so large. Still I know that the navy is the favorite of all, and ustly; it is the boast of the nation, and our great resource and hief dependence in the contingency of a war; no man thinks or a moment of crippling or disabling this right arm of our lefence. But I have supposed that without injury the appropriation asked for might be reduced from eight million, seven hundred and seven thousand, and five hundred, to six million and five hundred housand dollars. This would put the reduction in the naval on a

event of the loan's being taken up, seventeen millions. And then I go on to add two millions more as a reserved fund, to meet contingencies; so that, should there be a temporary rise of the expenditures beyond twenty-two millions, or any sudden emergency should occur which could not be anticipated or calculated on, there may be the requisite means in the treasury to meet it. Nor has there been a single secretary at the head of the treasury since the days of Mr. Gallatin, including the respectable gentleman from New Hampshire opposite, (Mr. Woodbury,) who has not held and expressed the opinion, that a reserved fund is highly expedient and proper for contingencies. Thus I propose that twenty-two millions shall be appropriated for ordinary expenses, two millions more to provide for the public debt, and other two millions a reserved fund to meet contingencies; making in all twenty-six millions.

The next inquiry which presents itself is, how this amount ought to be raised? There are two modes of estimating the revenue to be derived from foreign imports, and either of them presents only ground for a conjectural result; but so fluctuating is the course of commerce, that every one must see it to be impossible to estimate, with precision, the exact amount of what it will yield. In forming my estimate I have taken the amount of exports as presenting the best basis of calculation. But here let me add, that at the treasury they have taken the imports as the basis; and I am gratified to be able to state, that, I understand, on comparing the results arrived at, although the calculations were made without concert, those of the secretary turn out to be very nearly, if not exactly, the same with those to which I have been conducted. I will here state why it is I have taken the exports as the ground of my calculations, adding thereto fifteen per centum for profits. The exports are one means of making foreign purchases. Their value is ascertained at the ports of exportation, under the act of 1820, and the returns generally present the same value. The price of cotton, as an example, at home, is always regulated by the priee in the Liverpool market. It follows, therefore, that by taking the value of any commodity at the place of its export, you reach its true value; for, if the price realized abroad be sometimes above and sometimes below that amount, the excess and deficiency will probably neutralize each other. This is the fairest mode for another reason: if, in any one year, more foreign goods shall be purchased than the exports of that year would pay for, a credit is created abroad which must be extinguished by the exports of some succeeding year.

[Mr. Buchanan here inquired, if any deduction had been made by Mr. Clay from the exports, to pay the interest, and so forth, on American debt held abroad. Mr. Clay replied, that the senator would presently see that he had.]

I think the senate will agree with me, in assuming, that the

exports form a more correct and reliable standard of estimation than the imports; however that may be, the accidental coincidence between the results arrived at in either mode, fortifies and proves the calculation itself to have been founded in correct principles. Those results, as shown by the secretary of the treasury, are now, I believe, in the house, and I regretted that I could not examine them before I rose to address the senate.

I will now show you that the exports from 1836 to 1841, inclusive, a period of six years, amount to six hundred and twenty-one million, four thousand, one hundred and twenty-five dollars, being an average annual amount of one hundred and three million, five hundred thousand, six hundred and eighty-seven dollars. That I take as presenting a safe ground of calculations for the future. To this I propose to add fifteen per centum for profits, in which I do but follow Mr. Ewing, the late secretary, in his report at the extra session. It is certainly a great profit, (I include, of course, all expenses and charges of every kind,) and with this addition, the annual amount will be one hundred and eighteen million, nine hundred and fifty-eight thousand, one hundred and eighty-seven dollars, say one hundred and nineteen millions. Deducting for the interest and principal of the American debt abroad, ten millions per annum, it will leave a net amount of one hundred and nine millions. There can be no dispute as to the propriety of such a deduction: the debt exists; it must be provided for; and my fear is, that this

six millions from the ninety-one millions of dutiable articles imported; and, to reach that sum, at what rate per centum must you go?

I shall here say nothing, or but a word or two, on the subject of home valuation — a subject which a friend has care of, (Mr. Simmons,) than whom none is more competent to its full elucidation. He thinks, as I understand, that there can be devised a satisfactory system of such valuation, and I heartily wish him success in the attempt. I will only say that, in my opinion, if we raise but ten millions, without any reference whatever to protection, without reference to any thing but to mere honesty, however small the amount may be, we should ourselves assess the value of the goods on which we lay the duty, and not leave the value to be fixed by foreigners. As things now stand, we lay the duty, but foreigners fix the value of the goods. Give me but the power of fixing the value of the goods, and I care little, in comparison, what may be the rate of duty you impose. It is evident that on the ad valorem principle, it is the foreigner who virtually fixes the actual amount of the duty paid. It is the foreigner who, by fixing that value, virtually legislates for us; and that in a case where his interest is directly opposed to that of our revenue. I say, therefore, that independently of all considerations of protection, independently of all ends or motives but the prevention of those infamous frauds which have been the disgrace of our custom house — frauds in which the foreigner, with his double and triple and quadruple invoices, ready to be produced as circumstances may require, fixes the value of the merchandise taxed — every consideration of national dignity, justice, and independence, demands the substitution of home valuation in the place of foreign. What effect such a change may have in the augmentation of the revenue I am not prepared to say, because I do not know the amount; I think the rate may be set down at from twenty to twenty-five per centum, in addition to the foreign value of imports. I do not speak with great confidence. If the rate is twenty-five per centum, then it would add only five per centum to the rate of twenty per centum established by the compromise act. Of course, if the home be substituted for the foreign valuation, the augmentation of duties beyond twenty per centum will be less by that home valuation, whatever it may be. Without, however, entering into the question of home valuation, and leaving that subject to be arranged hereafter, I shall treat the subject as if the present system of foreign valuation were to continue.

I then return to the inquiry on an importation amounting to ninety-one millions, how much duty must be imposed in order to raise a net revenue of twenty-six millions? The question does not admit of perfect accuracy; the utmost that can be reached is a reasonable approximation. Suppose every one of the imported articles to be subject to a duty of thirty per centum, then the gross

revenue will amount to twenty-seven million and three hundred thousand dollars. Deducting the expenses of collection, which may be stated at one million and six hundred thousand dollars, it will give twenty-five million and seven hundred thousand dollars, or three hundred thousand dollars less than the proposed amount of twenty-six millions.

But I might as well take this opportunity to explain a subject which is not well understood. It has been supposed, when I propose to fix a rate of ad valorem duty as the maximum to be allowed, that my meaning is, that all articles, of every description, are to be carried up to that point, and fixed at that rate, as on a sort of bed of Procrustes. But that is not my idea. No doubt certain articles ought to go up to the maximum — I mean those of prime necessity belonging to the class of protected articles. There are others, such as jewelry and watches, and some others of small bulk and great comparative value, and therefore easily smuggled, and presenting a great temptation to the evasion of duty, which ought to be subjected to a less rate. There should, therefore, be a discrimination allowed under the maximum rate according to the exigency of the respective circumstances of each particular interest concerned. Since it will require a duty of thirty per centum on all articles to give the amount of twenty-five million seven hundred thousand dollars, and since some of them will not bear so high a duty as thirty per centum, it follows that less than that rate will

But it is necessary now to consider what the principles of the compromise act really are.

The first principle is, that there should be a fixed rate of ad valorem duty, and discriminations below it.

Second, that the excess of duty beyond twenty per centum should, by a gradual process, commencing on the thirty-first of December, 1833, be reduced, so that by the thirtieth of June, 1842, it should be brought down to twenty per centum.

Third, that after that day, *such duties should be laid* for the purpose of raising *such* revenue as might be necessary for an economical administration of the government; consequently excluding all resort to internal taxation, or to the proceeds of the public lands. For, contemporaneously with the pendency of the compromise act, a bill was pending for the distribution of those proceeds.

Fourth, that after the thirtieth of June, 1842, all duties should be paid in ready money, to the exclusion of all credits.

Fifth, that, after the same day, the assessment of the value of all imports should be made at home and not abroad.

Sixth, that after the same day, a list of articles specified and enumerated in the act, should be admitted free of duty, for the benefit of the manufacturing interest.

These are the principles, and all the principles of the compromise act. An impression has been taken up most erroneously, that the rate of duty was never to exceed twenty per centum. There is no such limitation in the act. I admit that, at the time of the passage of the act, a hope was entertained that a rate of duty not exceeding twenty per centum would supply an adequate revenue to an economical administration of the government. Then we were threatened with that overflow of revenue with which the treasury was subsequently inundated; and the difficulty was to find articles which should be liberated from duty and thrown into the free class. Hence, wines, silks, and other luxuries, were rendered free. But the act, and no part of the act, when fairly interpreted, limits congress to the iron rule of adhering for ever, and under all circumstances, to a fixed and unalterable rate of twenty per centum duty. The first section is in the following words:

'Be it enacted, and so forth, that, from and after the thirty-first day of December, one thousand eight hundred and thirty-three, in all cases where duties imposed on foreign imports by the act of the fourteenth day of July, one thousand eight hundred and thirty-two, entitled 'an act to alter and amend the several acts imposing duties on imports,' or by any other act, shall exceed twenty per centum on the value thereof, one tenth part of such excess shall be deducted; from and after the thirty-first day of December, one thousand eight hundred and thirty-five, another tenth part thereof shall be deducted; from and after the thirty-first day of December, one thousand eight hundred and thirty-seven, another tenth part thereof shall be deducted; from and after the thirty-first day of December, one thousand eight hundred and thirty-nine, another tenth part thereof shall be deducted; and from and after the thirty-first day of December, one thousand eight hundred and forty-one, one half of the residue of such excess shall be deducted; and from and after the thirtieth day of June, one thousand eight hundred and forty-two, the other half thereof shall be deducted.'

The provision of that section is nothing more nor less than that the existing duties should be, by the thirtieth of June, 1842, brought down to twenty per centum. What then? Were they always to remain at that rate? The section does not so declare. Not only is this not expected, and was not so understood, but directly the reverse is asserted, and was so understood, if the exigencies of the treasury required a higher rate to provide the revenue necessary to an economical administration of the government. The third section, which embodies most of the great principles of the act, is in these words:

'Section 3. And be it further enacted, that until the thirteenth day of June, one thousand eight hundred and forty-two, the duties imposed by existing laws, as modified by this act, shall remain and continue to be collected. And, from and after the day last aforesaid, all duties upon imports shall be collected in ready money; and all credits now allowed by law, in the payment of duties, shall be, and hereby are, abolished; and such duties shall be laid for the purpose of raising such revenue as may be necessary to an economical administration of the government; and, from and after the day last aforesaid, the duties required to be paid by law on goods, wares, and merchandise, shall be assessed upon the value thereof, at the port where the same shall be entered, under such regulations as may be prescribed by law.'

What is the meaning of this language? Can any thing be more explicit, or less liable to misconception? It contains two obligations. The first is, that there shall be an economical administration of the government; no waste, no extravagance, no squandering of the public money. I admit this obligation, in its fullest force, in all its length and breadth, and I trust that my friends, with

compromise act was passed; and there has been no difficulty in administering the duties of the treasury on that principle.

It was necessary first to ascertain the value of the goods, and then to impose the duty upon them; and, from the commencement of the act to this day, the ad valorem principle has been substantially in operation. Compare the difference between specific and the ad valorem system of duties, and I maintain that the latter is justly entitled to the preference. The one principle declares that the duty shall be paid upon the real value of the article taxed; the specific principle imposes an equal duty on articles greatly unequal in value. Coffee, for example, (and it is an article which always suggests itself to my thoughts,) is one of the articles on which a specific duty has been levied. Now, it is perfectly well known that the Mocha coffee is worth at least twice as much as the coffee of St. Domingo or Cuba, yet both pay the same duty. The tax has no respect to the value, but is arbitrarily levied on all articles of a specific kind, alike, however various and unequal may be their values. I say that, in theory, and according to every sound principle of justice, the ad valorem mode of taxation is entitled to the preference. There is, I admit, one objection to it; as the value of an article is a matter subject to opinion, and as opinions will ever vary, either honestly or fraudulently, there is some difficulty in preventing frauds. But, with the home valuation proposed by my friend from Rhode Island, (Mr. Simmons,) the ad valorem system can be adopted with all practicable safety, and will be liable to those chances only of fraud, which are inevitable under any and every system.

Again. What has been the fact from the origin of the government until now? The articles from which the greatest amount of revenue has been drawn, such as woollens, linens, silks, cottons, worsteds, and a few others, have all been taxed on the ad valorem principle, and there has been no difficulty in the operation. I believe, upon the whole, that it is the best mode. I believe that if we adopt a fixed rate ad valorem, wherever it can be done, the revenue will be subjected to fewer frauds than the injustice and frauds incident to specific duties. One of the most prolific sources of the violation of our revenue laws, has been, as every body knows, the effort to get in goods of a finer quality and higher value admitted under the lower rate of duty required for those of a lower value. The honorable gentleman from New Hampshire, (Mr. Woodbury,) and the honorable senator from New York, (Mr. Wright,) both well know this. But if the duty were laid ad valorem there could be no motive for such an effort, and the fraud, in its present form, would have no place. In England, as all who have read the able report made by Mr. Hume, a Scottish member in the house of commons, must perceive, they seem to be giving up specific duties, and the tendency in the public mind appears to be.

instead of having a variety of specific duties and a variety of ad valorem duties, to have one permanent fixed rate of duty for all articles. I am willing, I repeat, to adhere to this great principle, as laid down in the compromise act. If there be those who suppose that, under the specific form of duty, a higher degree of protection can be secured than under the other mode, I would observe that the actual measure of protection does not depend upon the *form* but on the *amount* of the duty which is levied on the foreign rival article.

Assuming that we are to adhere to this principle, then every one of the leading principles of the same act can be adhered to and carried fully out; for I again assert that the idea that duties are always to remain at precisely twenty per centum, and never to vary from that point, be the exigencies of government what they may, does not belong to the language of the act, nor is it required by any one of its provisions.

The next resolution I have proposed to the consideration of the senate, is this:

'Resolved, that the provision in the act of the extra session, for the distribution of the proceeds of the public lands, requiring the operation of that act to be suspended in the contingency of a higher rate of duty than twenty per centum, ought to be repealed.'

Now, according to the calculations I have made, the repeal of the clause in question, and the recall of the proceeds of the sales

is willing, for the sake of this trifling difference, between thirty and twenty-eight and a half per centum, or between thirty and twenty-seven per centum, to disturb a great momentous and perplexing subject of our national policy, which is now settled, and thereby show such an example of instability in legislation as will be exhibited by the fact of unsettling so great a question within less than eight months after it had been fixed, on the most mature consideration? If gentlemen can make more out of the land fund than I have here stated it likely to yield, I shall be glad to hear on what ground they rest their calculations. I say that all the difference it will produce in the amount of our increased taxation is the difference between thirty and twenty-eight and a half, or between thirty and twenty-seven per centum. Will you, I repeat the question, when it is absolutely and confessedly necessary that more revenue shall be raised, and the mode in which it may be done is fraught with so many and so great benefits to the country, as I shall presently show, will you disturb a great and vexed national question for the sake of eking out in so trifling a degree, the amount to be raised? But let us look at the subject in another view. The resources on which government should depend, for paying the public creditor, and maintaining inviolate the national faith and credit, ought to be such as to admit of some certain estimate and calculation. But what possible reliance can be placed on a fund so fluctuating and variable as that which is derivable from the sales of the public lands? We have seen it rise to the extraordinary height of twenty-six millions in one year, and in less than six years afterwards fall down to the low amount of one million and a half!

The next resolution affirms a proposition which I hope will receive the unanimous consent of the senate. It is as follows.

'Resolved, that it is the duty of government, at all times, but more especially in a season such as now exists, of general embarrassment, and pecuniary distress, to abolish all useless institutions and offices, to curtail all unnecessary expenses, and to practice rigid economy.'

And the seventh resolution declares,

'That the contingent expenses of the two houses of congress ought to be greatly reduced; and the mileage of members of congress ought to be regulated, and more clearly defined.'

It has appeared to me, that the process of retrenchment of the public expenses, and reform of existing abuses, ought to begin in an especial manner, here, with ourselves, in congress itself, where is found one of the most extravagant of all the branches of the government. We should begin at home, and encourage the work of retrenchment by our own example. I have before me a document which exhibits the gradual progress in the contingent expenses of the two houses of congress, from 1820 to 1840, embracing a

period of twenty years, divided into terms four years apart, and it shows that the amount of the contingent fund has advanced from eighty-six thousand dollars, which it was in 1824, to one hundred and twenty-one thousand in 1828, a rate of increase not greater than was proper, considering the progress of the country; to one hundred and sixty-five thousand in 1832; to two hundred and sixty-three thousand, in 1836; and, in 1840, it amounted, under an administration which charged that in 1824 with extravagance, to the enormous sum of three hundred and eighty-four thousand, three hundred and thirty-three dollars! I am really sorry, for the credit of congress, to be obliged to read a statement exhibiting such shameful, such profligate waste. And allow me here to say, without any intention of being unkind to those able and competent officers, the secretary of the senate, and the clerk * of the house of representatives, (not the present clerk,) that they ought to bear a share of the responsibility, for the great and sudden growth of this expenditure. How did it arise? The clerk presents his estimate of the sum that will be necessary, and the committee of ways and means, being busily occupied in matters of greater moment, take it without sufficient examination, and insert it at once on the appropriation bill. But I insist that it should be cut down to a sum of which members of congress may, with some decency, speak to their constituents. A salutary reform has been commenced in the house of representatives, which ought to be followed up here. They have already stricken one hundred thousand dollars from the contingent

was in 1824, to four hundred and seventy-one thousand dollars, at which it stood for the year 1840. Can any man believe that this has all been fairly done? that that department actually requires the expenditure every year of nearly half a million of dollars? I have no doubt that the district judges and the marshals, who have great control of the expenditure of the fund, and the clerks, ought to be held responsible for this enormous increase. Without any intention to indulge in any invidious distinctions, I think I could name a district in which great abuses prevail, and the expenditures are four or five times greater than they are in any other district throughout the country. I hope this whole matter will be thoroughly investigated, and that some necessary restraints will be imposed upon this branch of the public service. I am truly sorry, that in a branch of the government which, for its purity and uprightness, has ever been distinguished, and which so well merits the admiration of the whole country, there should have occurred so discreditable an increase in the expenses of its practical administration.

The next resolution asserts,

'That the diplomatic relations of the United States with foreign powers have been unnecessarily extended during the last twelve years, and ought to be reduced.'

I will not dwell long on this subject. I must remark, however, that since the days of Mr. Adams's administration, the number of foreign ministers, of the first grade, has nearly doubled, and that of ministers of the second grade has nearly tripled. Why, we have ministers abroad, who are seeking for the governments to which they are accredited, and the governments are not to be found! We have ministers at Constantinople and Vienna, and for what? We have an unreciprocated mission to Naples, and for what? There was, at the last session, an attempt to abolish this appointment, but it unfortunately failed. One would think, that, in such a one-sided, unreciprocated diplomacy, if a regard to economy did not prompt us to discontinue the relation, national pride would. In like manner, we might look round the coasts of Europe, and of this continent, and find mission after mission which there seems to be no earthly utility in retaining. But I forbear.

On the subject of mileage, I hope there may be an effort to equalize it justly, and render it uniform, and that the same allowance will be made for the same distance travelled, whether by land, by water, or by steam route, or whether the distance be ascertained by horizontal or surface measurement. I think the former the best mode, because it limits us to a single and simple inquiry, and leaves no open door for abuses. I hope, therefore, that we shall adopt it.

The next resolution of the series reads thus:

'Resolved, that the franking privilege ought to be further restricted, the abusive uses of it restrained and punished, the postage on letters reduced, the mode of estimating distances more clearly defined and prescribed, and a small addition to postage

made on books, pamphlets, and packages transmitted by the mail, to be graduated and increased according to their respective weights.'

The franking privilege has been most direfully abused. We have already reached a point of abuse, not to say corruption, though the government has been in operation but about fifty years, which it has taken Great Britain centuries to attain. Blank envelopes, I have heard it said, ready franked, have been enclosed to individuals at a distance, who openly boasted that their correspondence is free of charge. The limitation as to the weight is now extended, I believe, to two ounces. But what of that, if a man may send under his frank a thousand of these two-ounce packages? The limitation should be to the total weight included in any single mail, whether the packages be few or many. The report of the post-master general, at a former session, states the astounding fact, that, of the whole amount transported in the mails, *ninety-five per centum* goes free of all duty, and letters of business and private correspondence have to defray the expense of the whole. It is monstrous, and calls loudly for some provision to equalize the charge. The present postage on letters is enormously high, in proportion to the other business of the country. If you will refuse to carry those packages, which are now transmitted by mail simply because in that mode they can travel free of cost, you will greatly relieve the business interests of the country, which now bear nearly the whole burden for all the rest. This it is your duty to do. Let us throw, at least,

thus unaided, can effect comparatively but little. I hope they will enter with us on this good work of retrenchment and reform. I shall be the last to express in advance any distrust of their upright intentions in this respect. The only thing that alarms me is, that two of these departments have come to us asking for appropriations far beyond any that have heretofore been demanded in time of peace, and that with the full knowledge of the fact of an empty treasury. But I still hope, when they shall see congress heartily, in earnest, engaged in retrenching useless expenditure, and reducing estimates that cannot be complied with, that they will boldly bring out to view all abuses which exist in their several spheres of action, and let us apply the pruning-knife, so as to reduce the national expenditure within some proper and reasonable amount. At all events, they are, of course, most familiar with the details of the subject, as it relates to their several branches of the administration. Among other items, there are several useless mints, which only operate to waste the public money. A friend, occupied in investigating this subject, has told me that the mint in New Orleans has already cost the country half a million of dollars, for getting ready to coin bullion not yet dug out of the mine!

[Mr. Berrien here spoke across something not heard by the reporter, in relation to the mint at Dahlonega, which excited much mirth in the neighboring part of the chamber.]

While every piece of coin made by these useless establishments could just as well be coined by the central mint, at Philadelphia.

And now, having gone through with all the details of this series of resolutions, which I thought it my duty to notice, allow me, in drawing to a conclusion of these remarks, to present some of the advantages which it appears to me should urge us to adopt the system of financial arrangement contemplated in the resolutions.

And first, the government will, in this way, secure to itself an adequate amount of revenue, without being obliged to depend on temporary and disreputable expedients, and thus preseve the public credit unsullied, which I deem a great advantage of the plan. Credit is of incalculable value, whether to a nation or an individual. England, proud England, a country with which we may one day again come in conflict — though it gives me pleasure to say, that I cannot perceive at present the least 'speck of war' in the political horizon — owes her greatness, her vastness of power, pervading the habitable globe, mainly to her strict and uniform attention to the preservation of the national credit.

Second. The next thing recommended is retrenchment in the national expenditure, and greater economy in the administration of the government. And do we not owe it to this bleeding country, to ourselves, and the unparalleled condition of the time, to exhibit to the world a fixed, resolute, and patriotic purpose, to reduce the public expenditure to an economical standard?

Third. But a much more important advantage than either of ose I have yet adverted to, is to be found in the check which the doption of this plan will impose on the efflux of the precious etals from this country to foreign countries. I shall not now go to the causes by which the country has been brought down from e elevated condition of prosperity it once enjoyed, to its present ate of general embarrassment and distress. I think that those auses are as distinctly in my understanding and memory as any ubjects were ever impressed there; but I have no desire to go into discussion which can only revive the remembrance of unpleasant pics. My purpose, my fixed purpose on this occasion, has been appeal to all gentlemen on all political sides of this chamber, to ome out, and make a sacrifice of all lesser differences, in a patriotic, enerous, and general effort, for the relief of their country. I shall ot open these bleeding wounds which have, in too many instances, een inflicted by brothers' hands — especially will I not do so at is time, and on this occasion. I shall look merely at facts as they re. I shall not ask what have been the remote causes of the epression and wretchedness of our once glorious and happy ountry. I will turn my view only on causes which are proximate, ndisputable, and immediately before us.

One great if not sole cause is to be found in the withdrawal of oin from the country, to pay debts accrued or accruing abroad, for oreign imports, or debts contracted during former periods of

the distress. Could you annihilate every bank in the union, and burn every bank note, and substitute in their place a circulation of nothing but the precious metals, as long as such a tariff continues as now exists, two years would not elapse till you would find the imperative necessity of some paper medium for conducting the domestic exchanges.

I announce only an historical truth, when I declare, that during, and ever since our colonial existence, necessity has given rise to the existence of a paper circulation of some form, in every colony on this continent; and there was a perpetual struggle between the crown and royal governors on one hand, and the colonial legislatures on the other, on this very subject of paper money. No; if you had to-morrow a circulation consisting of nothing but the precious metals, they would leave you as the morning dew leaves the fields, and you would be left under the necessity of devising a mode to fill the chasm produced by their absence.

I am ready to make one concession to the gentlemen on the other side. I admit that, if the circulation were in coin alone, the thermometer of our monetary fluctuations would not rise as high, or fall as low as when the circulation is of a mixed character, consisting partly of coin and partly of paper. But then the fluctuations themselves, within a more circumscribed range, would be quite as numerous, and they will and must exist so long as such a tariff remains as forces the precious metals abroad. I again repeat the assertion that, could you annihilate to-morrow every bank in the country, the very same description of embarrassment, if not in the same degree, would still be found which now pervades our country.

What, then, is to be done, to check this foreign drain? We have tried free trade. We have had the principles of free trade operating on more than half the total amount of our comforts, for the greater part of nine years past. That will not do, we see. Do let me recall to the recollection of the senate the period when the protective system was thought about to be permanently established. What was the great argument then urged against its establishment? It was this: that if duties were laid directly for protection, then we must resort to direct taxation to meet the wants of the government; everybody must make up their minds to a system of internal taxation. Look at the debate in the house of representatives of 1824, and you will find that was the point on which the great stress was laid. Well, it turned out as the friends of protection told you it would. We said that such would not be the effect. True, it would diminish importation, as it did; but the augmented amount of taxes would more than compensate for the reduced amount of goods. This we told you, and we were right.

How has free trade operated on other great interests? I well remember, that, ten years ago, one of the most gifted of the sons of South Carolina, (Mr. Hayne,) after drawing a most vivid and

ightful picture of the condition of the south — of fields abandoned, ouses dilapidated, overseers becoming masters, and masters over-eers, general stagnation, and approaching ruin; a picture which, I onfess, filled me with dismay — cried out to us, abolish your tariff, educe your revenue to the standard of an economical government, nd once more the fields of South Carolina will smile with beauty, er embarrassments will vanish, commerce will return to her har-ors, labor to her plantations; augmented prices for her staples, nd contentment, and prosperity, and universal happiness to her ppressed people. Well, we did reduce the tariff, and, after nine ears of protection, we have had nine years of a descending tariff nd of free trade. Nine years, (from 1824 to 1833,) we had the rotective policy of a high tariff; and nine years, (from 1833 to 842,) we have had the full operation of free trade on more than a noiety of the whole amount of our imports, and a descending ariff on the residue. And what is the condition of South Caro-na at this day? Has she regained her lost prosperity? Has she ecovered from the desolation and ruin so confidently imputed to e existence of a high tariff? I believe, if the gentleman from outh Carolina could be interrogated here, and would respond in andor, unbiased by the delusions engendered by a favorite but elusive theory, he would tell us that she had not experienced the romised prosperity which was dwelt upon with so much elo-uence by his fellow citizen. How is it in regard to the great

supply of her factories with cotton, and when the importations from India have swelled from two hundred thousand bales to five hundred and eighty thousand bales, we are told that there are to be no restrictions on free trade.

Let me not be misunderstood, and let me entreat that I may not be misrepresented. I am not advocating the revival of a high protective tariff. I am for abiding by the principles of the compromise act; I am for doing what no southern man of a fair or candid mind has ever yet denied—giving to the country a revenue which may provide for the economical wants of the government, and at the same time give an incidental protection to our home industry. If there be here a single gentleman who will deny the fairness and propriety of this, I shall be glad to see and hear who he is.

This check on the flow of specie abroad, to pay either a commercial or a public debt, will operate by the imposition of duties to meet the wants of the government; will keep the precious metals at home to a much greater extent than is now possible. I hope that we shall learn to live within our own means, and not remain so dependent as we now are on the mere good pleasure and domestic policy of foreign governments. We go for revenue; for an amount of revenue adequate to an economical administration of the government. We can get such revenue nowhere else than from a tariff on importations. No man in his senses will propose a resort to direct or internal taxes. And this arrangement of the tariff, while it answers this end, will at the same time operate as a check on the efflux of the precious metals, and retain what is necessary for the purposes of exchange and circulation.

The fourth advantage attending the adoption of the system proposed will be, that the states will be left in the undisturbed possession of the land fund secured to them by the act of the last session, and which was intended to aid them in the embarrassments under which some of them are now laboring.

And the last is that to which I have already adverted, namely, that it will afford, indirectly, protection to the interests of American industry. And the most bitter and persevering opponent to the protective policy I ever met with, has never denied that it is both the right and the duty of government so to lay the taxes necessary to the public service, as to afford incidental protection to our own home industry.

But it is said that, by the adoption of one fixed, arbitrary maximum of ad valorem duty, we shall not derive that measure of protection which is expected; and I admit that there may be certain articles, the product of the mechanic arts—such, for example, as shoes, hats, and ready made clothing, and sugar, iron, and paper—some or all of which may not derive the protection which they need under the plan I propose. On that subject I can

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With me, from the first moment I conceived the idea of creating, at home, a protection for the production of whatever is needed to supply the wants of man, up to this moment, it has always been purely a question of expediency. I never could comprehend the constitutional objection which to some gentlemen seems so extremely obvious. I could comprehend, to be sure, what these, gentlemen mean to argue, but I never had the least belief in the constitutional objection which slept from 1788, (or, rather, which reverses the doctrine of 1780,) till it suddenly waked up in 1820. Then, for the first time since the existence of the constitution, was the doctrine advanced that we could not legitimately afford any protection to our own home industry against foreign and adverse industry. I say, that with me it always was a question of expediency only. If the nation does not want protection, I certainly never would vote to force it upon the nation; but viewing it as a question of expediency wholly, I have not hesitated heretofore, on the broad and comprehensive ground of expediency, to give my assent to all suitable measures proposed with a view to that end.

The senate will perceive that I have forborne to go into detail, especially in regard to the urgency of reform and retrenchment, with one or two exceptions. I have presented to it a system of policy embodied in these resolutions, containing those great principles in which I believe that the interest, prosperity, and happiness of the country are deeply involved — principles, the adoption of which alone can place the finances of the government upon a respectable footing, and free us from a condition of servile dependence on the legislation of foreign nations. I have persuaded myself that the system now brought forward will be met in a spirit of candor and of patriotism, and in the hope that whatever may have been the differences in the senate in days past, we have now reached a period in which we forget our prejudices, and agree to bury our transient animosities deep at the foot of the altar of our common country, and come together as an assemblage of friends, and brothers, and compatriots, met in common consultation to devise the best mode of relieving the public distress. It is in this spirit that I have brought forward my proposed plan; and I trust in God, invoking, as I humbly do, the aid and blessing of his providence, that the senators, on all sides of the chamber, will lay aside all party feelings, and more especially that habitual suspicion to which we are all more or less prone, (and from which I profess not to be exempted more than other men,) that impels us to reject, without examination, and to distrust whatever proceeds from a quarter we have been in the habit of opposing. Let us lay aside prejudice; let us look at the distresses of our country, and these alone. I trust that in this spirit we shall examine these resolutions, and decide upon them according to the dictates of our own consciences, and in a pure and patriotic regard to the welfare of our country.

IN THE SENATE OF

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I entered the senate of the United States in December, 1806. I regarded that body then, and still consider it, as one which may compare, without disadvantage, with any legislative assembly, either in ancient or modern times, whether I look to its dignity, the extent and importance of its powers, the ability by which its individual members have been distinguished, or its organic constitution. If compared in any of these respects with the senates either of France or of England, that of the United States will sustain no derogation. With respect to the mode of constituting those bodies, I may observe, that, in the house of peers in England, with the exceptions of Ireland, and of Scotland—and in that of France with no exception whatever—the members hold their places in their individual rights under no delegated authority, not even from the order to which they belong, but derive them from the grant of the crown, transmitted by descent, or created in new patents of nobility; while here we have the proud and more noble title of representatives of sovereign states, of distinct and independent commonwealths.

If we look again at the powers exercised by the senates of France and England, and by the senate of the United States, we shall find that the aggregate of power is much greater here. In all, the respective bodies possess the legislative power. In the foreign senates, as in this, the judicial power is invested, although there it exists in a larger degree than here. But, on the other hand, that vast, undefined, and undefinable power involved in the right to coöperate with the executive in the formation and ratification of treaties, is enjoyed in all its magnitude and consequence by this body, while it is possessed by neither of theirs: besides which, there is another function of very great practical importance—that of sharing with the executive branch in distributing the immense patronage of this government. In both these latter respects we stand on grounds different from the house of peers either of England or France. And then, as to the dignity and decorum of its proceedings, and ordinarily, as to the ability of its members, I may, with great truth, declare that, during the whole long period of my knowledge of this senate, it can, without arrogance or presumption, stand an advantageous comparison with any deliberative body that ever existed in ancient or modern times.

Full of attraction, however, as a seat in the senate is, sufficient as it is to satisfy the aspirations of the most ambitious heart, I have long determined to relinquish it, and to seek that repose which can be enjoyed only in the shades of private life, in the circle of one's own family, and in the tranquil enjoyments included in one enchanting word—Home.

It was my purpose to terminate my connection with this body in November, 1840, after the memorable and glorious political struggle which distinguished that year: but I learned, soon after, what indeed I had for some time anticipated from the result of my own reflec-

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confidence appeal to that divine arbiter for the truth of the declaration, that I have been influenced by no impure purpose, no personal motive; have sought no personal aggrandizement; but that, in all my public acts, I have had a single eye directed, and a warm and devoted heart dedicated, to what, in my best judgment, I believed the true interests, the honor, the union, and the happiness of my country required.

During that long period, however, I have not escaped the fate of other public men, nor failed to incur censure and detraction of the bitterest, most unrelenting, and most malignant character; and though not always insensible to the pain it was meant to inflict, I have borne it in general with composure, and without disturbance here, [pointing to his breast,] waiting as I have done, in perfect and undoubting confidence, for the ultimate triumph of justice and of truth, and in the entire persuasion that time would settle all things as they should be, and that whatever wrong or injustice I might experience at the hands of man, He to whom all hearts are open and fully known, would, by the inscrutable dispensations of his providence, rectify all error, redress all wrong, and cause ample justice to be done.

But I have not meanwhile been unsustained. Everywhere throughout the extent of this great continent I have had cordial, warm-hearted, faithful, and devoted friends, who have known me, loved me, and appreciated my motives. To them, if language were capable of fully expressing my acknowledgments, I would now offer all the return I have the power to make for their genuine, disinterested, and persevering fidelity and devoted attachment, the feelings and sentiments of a heart overflowing with never ceasing gratitude. If, however, I fail in suitable language to express my gratitude to *them* for all the kindness they have shown me, what shall I say, what *can* I say at all commensurate with those feelings of gratitude with which I have been inspired by the state whose humble representative and servant I have been in this chamber? [Here Mr. C's feelings overpowered him, and he proceeded with deep sensibility and difficult utterance.]

I emigrated from Virginia to the state of Kentucky now nearly forty-five years ago; I went as an orphan boy who had not yet attained the age of majority; who had never recognised a father's smile, nor felt his warm caresses; poor, pennyless, without the favor of the great, with an imperfect and neglected education, hardly sufficient for the ordinary business and common pursuits of life; but scarce had I set my foot upon her generous soil when I was embraced with parental fondness, caressed as though I had been a favorite child, and patronised with liberal and unbounded munificence. From that period the highest honors of the state have been freely bestowed upon me; and when, in the darkest hour of calumny and detraction, I seemed to be assailed by all the rest of the world,

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my political friends, with a view to the acquisition of power from the hands of an honest and confiding people; if these constitute a man a DICTATOR, why, then, I must be content to bear, although I still ought only to share with my friends, the odium or the honor of the epithet, as it may be considered on the one hand or the other.

That my nature is warm, my temper ardent, my disposition, especially in relation to the public service, enthusiastic, I am ready to own; and those who suppose that I have been assuming the dictatorship, have only mistaken for arrogance or assumption that ardor and devotion which are natural to my constitution, and which I may have displayed with too little regard to cold, calculating, and cautious prudence, in sustaining and zealously supporting important national measures of policy which I have presented and espoused.

In the course of a long and arduous public service, especially during the last eleven years in which I have held a seat in the senate, from the same ardor and enthusiasm of character, I have no doubt, in the heat of debate, and in an honest endeavor to maintain my opinions against adverse opinions alike honestly entertained, as to the best course to be adopted for the public welfare, I may have often inadvertently and unintentionally, in moments of excited debate, made use of language that has been offensive, and susceptible of injurious interpretation towards my brother senators. If there be any here who retain wounded feelings of injury or dissatisfaction produced on such occasions, I beg to assure them that I now offer the most ample apology for any departure on my part from the established rules of parliamentary decorum and courtesy. On the other hand, I assure senators, one and all, without exception and without reserve, that I retire from this chamber without carrying with me a single feeling of resentment or dissatisfaction to the senate or any one of its members.

I go from this place under the hope that we shall, mutually, consign to perpetual oblivion whatever personal collisions may at any time unfortunately have occurred between us; and that our recollections shall dwell in future only on those conflicts of mind with mind, those intellectual struggles, those noble exhibitions of the powers of logic, argument, and eloquence, honorable to the senate and to the nation, in which each has sought and contended for what he deemed the best mode of accomplishing one common object, the interest and the most happiness of our beloved country. To these thrilling and delightful scenes it will be my pleasure and my pride to look back in my retirement with unmeasured satisfaction.

And now, Mr. President, allow me to make the motion which it was my obect to submit when I rose to address you. I present the credentials of my friend and successor. If any void has been created by my withdrawal from the senate, it will be amply filled by him, whose urbanity, whose gallant and gentlemanly bearing, whose steady adherence to principle, and whose rare and accomplished

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And now, Mr. Presiden
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Mr. Crittenden was then duly q

Mr. Preston rose and said: wha
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# ON HIS RETIREMENT TO PRIVATE LIFE.

## AT LEXINGTON, KENTUCKY, JUNE 9, 1842.

[AFTER his resignation as senator, and retirement to private life, at Ashland, near Lexington, Kentucky, his fellow-citizens of that place and its vicinity, gave a festival in honor of him, on the above-named day, when Mr. Clay addressed them in the following words, in which he takes an interesting retrospect of his long career as a public man, and enters into a sketch of the most important political events which had affected the condition of the country, concluding with an exhortation to his political friends to continue their efforts to promote the best interests of their country.

Judge Robertson, who presided, offered the following sentiment, which he prefaced with appropriate remarks

HENRY CLAY—*farmer of Ashland, patriot and philanthropist—the* AMERICAN *statesman, and unrivalled orator of the age*—illustrious abroad, beloved at home: in a long career of eminent public service, often, like *Aristides*, he breasted the raging storm of passion and delusion, and by offering himself a sacrifice, saved the republic; and now, like *Cincinnatus* and *Washington*, having voluntarily retired to the tranquil walks of private life, the grateful hearts of his countrymen will do him ample justice; but come what may, *Kentucky will stand by him*, and still continue to cherish and defend, as her own, the fame of a son who has emblazoned her escutcheon with immortal renown.

After the evidences of feeling which this sentiment elicited had subsided, Mr. Clay rose and spoke as follows.]

MR. PRESIDENT, LADIES, AND GENTLEMEN:

It was given to our countryman, Franklin, to bring down the lightning from heaven. To enable me to be heard by this immense multitude, I should have to invoke to my aid, and to throw into my voice, its loudest thunders. As I cannot do that, I hope I shall be excused for such a use of my lungs as is practicable, and not inconsistent with the preservation of my health. And I feel that it is our first duty to express our obligations to a kind and bountiful Providence, for the copious and genial showers with which he has just blessed our land—a refreshment of which it stood much in need. For one, I offer to him my humble and dutiful thanks. The inconvenience to us, on this festive occasion, is very slight, while the sum of good which those timely rains will produce, is very great and encouraging.

Fellow-citizens, I find myself now in a situation somewhat like one in which I was placed a few years ago, when travelling through the state of Indiana, from which my friend (Mr. Rariden) near me

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I cannot but feel Mr. B

I seize the opportunity to present my heartfelt thanks to the whole people of Kentucky, for all the high honors and distinguished favors which I have received, during a long residence with them, at their hands; for the liberal patronage which I received from them in my professional pursuit; for the eminent places in which they have put me, or enabled me to reach; for the generous and unbounded confidence which they have bestowed upon me, at all times; for the gallant and unswerving fidelity and attachment with which they stood by me, throughout all the trials and vicissitudes of an eventful and arduous life; and above all, for the scornful indignation with which they repelled an infamous calumny directed against my name and fame, at a momentous period of my public career. In recalling to our memory but the circumstances of that period, one cannot but be filled with astonishment at the indefatigability with which the calumny was propagated, and the zealous partisan use to which it was applied, not only without evidence, but in the face of a full and complete refutation. Under whatever deception, delusion, or ignorance, it was received elsewhere, with you, my friends and neighbors, and with the good people of Kentucky, it received no countenance; but in proportion to the venom and the malevolence of its circulation was the vigor and magnanimity with which I was generally supported. Upheld with the consciousness of the injustice of the charge, I should have borne myself with becoming fortitude, if I had been abandoned by you as I was by so large a portion of my countrymen. But to have been sustained and vindicated as I was, by the people of my own state, by you who know me best, and whom I had so many reasons to love and esteem, greatly cheered and encouraged me, in my onward progress. Eternal thanks and gratitude are due from me.

I thank you, friends and fellow-citizens, for your distinguished and enthusiastic reception of me this day; and for the excellence and abundance of the barbecue that has been provided for our entertainment. And I thank, from the bottom of my heart, my fair country-women, for honoring, and gracing, and adding brilliancy to this occasion, by their numerous attendance. If the delicacy and refinement of their sex will not allow them to mix in the rougher scenes of human life, we may be sure that whenever, by their presence, their smiles and approbation are bestowed, it is no ordinary occurrence. That presence is always an absolute guarantee of order, decorum, and respect. I take the greatest pleasure in bearing testimony to their value and their virtue. I have ever found in them true and steadfast friends, generously sympathizing in distress, and, by their courageous fortitude in bearing it themselves, encouraging us to imitate their example. And we all know and remember how, as in 1840, they can powerfully aid a great and good cause, without any departure from the propriety or dignity of their sex.

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memorable report to the Virginia legislature, and to them, as I understood them, I have constantly adhered. Upon the question coming up in the senate of the United States to recharter the first bank of the United States, thirty years ago, I opposed the recharter, upon convictions which I honestly entertained. The experience of the war, which shortly followed, the condition into which the currency of the country was thrown, without a bank, and, I may now add, later and more disastrous experience, convinced me I was wrong. I publicly stated to my constituents, in a speech in Lexington, (that which I made in the house of representatives of the United States not having been reported,) my reasons for that change, and they are preserved in the archives of the country. I appeal to that record, and I am willing to be judged now and hereafter by their validity.

I do not advert to the fact of this solitary instance of change of opinion, as implying any personal merit, but because it is a fact. I will, however, say that I think it very perilous to the utility of any public man, to make frequent changes of opinion, or any change, but upon grounds so sufficient and palpable, that the public can clearly see and approve them. If we could look through a window into the human breast, and there discover the causes which led to changes of opinion, they might be made without hazard. But as it is impossible to penetrate the human heart, and distinguish between the sinister and honest motives which prompt it, any public man that changes his opinion, once deliberately formed and promulgated, under other circumstances than those which I have stated, draws around him distrust, impairs the public confidence, and lessens his capacity to serve his country.

I will take this occasion now to say, that I am, and have been long satisfied, that it would have been wiser and more politic in me, to have declined accepting the office of secretary of state in 1825. Not that my motives were not as pure and as patriotic as ever carried any man into public office. Not that the calumny which was applied to the fact was not as gross and as unfounded as any that was ever propagated. [Here some body cried out that Mr. Carter Beverly, who had been made the organ of announcing it, had recently borne testimony to its being unfounded. Mr. Clay said it was true that he had voluntarily borne such testimony, But, with great earnestness and emphasis, Mr. Clay said, I want no testimony—here, here, here, HERE, repeatedly touching his heart, amidst tremendous cheers, here is the best of all witnesses of my innocence.] Not that valued friends, and highly esteemed opponents did not unite in urging my acceptance of the office. Not that the administration of Mr. Adams will not, I sincerely believe, advantageously compare with any of his predecessors, in economy, purity, prudence, and wisdom. Not that Mr. Adams was himself wanting in any of those high qualifications and

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all for Jackson. Why? I ask
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I said to him, in conclusion
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sary to shove me aside. I defy my enemies to point out any act or instance of my life, in which I have sought the attainment of office by dishonorable or unworthy means. Did I display inordinate ambition when, under the administration of Mr. Madison, I declined a foreign mission of the first grade, and an executive department, both of which he successively kindly tendered to me? when, under that of his successor, Mr. Monroe, I was first importuned, (as no one knows better than that sterling old patriot, Jonathan Roberts, now threatened, as the papers tell us, with expulsion from an office which was never filled with more honesty and uprightness, because he declines to be a servile instrument,) to accept a secretaryship, and was afterwards offered a *carte blanche* of all the foreign missions? At the epoch of the election of 1825, I believe no one doubted at Washington that, if I had felt it my duty to vote for general Jackson, he would have invited me to take charge of a department. And such undoubtedly Mr. Crawford would have done if he had been elected. When the Harrisburg convention assembled, the general expectation was that the nomination would be given to me. It was given to the lamented Harrison. Did I exhibit extraordinary ambition when, cheerfully acquiescing, I threw myself into the canvass and made every exertion in my power to insure it success? Was it evidence of unchastened ambition in me to resign, as I recently did, my seat in the senate — to resign the dictatorship, with which my enemies had so kindly invested me, and come home to the quiet walks of private life?

But I am ambitious because some of my countrymen have seen fit to associate my name with the succession for the presidential office. Do those who prefer the charge know what I have done, or not done, in connection with that object? Have they given themselves the trouble to inquire at all into any agency of mine in respect to it? I believe not. It is a subject which I approach with all the delicacy which belongs to it, and with a due regard to the dignity of the exalted station; but on which I shall, at the same time, speak to you, my friends and neighbors, without reserve, and with the utmost candor.

I have prompted none of those movements among the people, of which we have seen accounts. As far as I am concerned, they are altogether spontaneous, and not only without concert with me, but most generally without any sort of previous knowledge on my part. That I am thankful and grateful, profoundly grateful, for these manifestations of confidence and attachment, I will not conceal or deny. But I have been, and mean to remain a passive, if not an indifferent spectator. I have reached a time of life, and seen enough of high official stations, to enable me justly to appreciate their value, their cares, their responsibilities, their ceaseless duties. That estimate of their worth, in a personal point of view, would restrain me from seeking to fill any one, the highest of them, in a

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sary for me to touch with freedom and independence upon the past as well as the present, and upon the conduct, spirit, and principles of parties. In doing this, I assure my democratic brethren and fellow citizens, of whom I am told there are many here present, (and I tender them my cordial thanks for the honor done me by their attendance here this day, with as much sincerity and gratitude as if they agreed with me in political sentiment,) that nothing is further from my intention than to say one single word that ought to wound their feelings or give offence to them. But surely, if there ever was a period in the progress of any people, when all were called upon, with calmness and candor, to consider thoroughly the present posture of public and private affairs, and deliberately to inquire into the causes and remedies of this unpropitious state of things, we have arrived at that period in the United States. And if ever a people stood bound by the highest duties to themselves and to their posterity, to sacrifice upon the altar of their country, cherished prejudices and party predilections and antipathies, we are now called upon to make that sacrifice if necessary.

What is our actual condition? It is one of unexampled distress and embarrassment, as universal as it is intense, pervading the whole community and sparing none; property of all kinds, and every where, fallen and falling in value; agricultural produce of every description at the most reduced prices; money unsound and at the same time scarce, and becoming more scarce by preparations, of doubtful and uncertain issue, to increase its soundness; all the departments of business inactive and stagnant; exchanges extravagantly high, and constantly fluctuating; credit, public and private, at the lowest ebb, and confidence lost; and a feeling of general discouragement and depression. And what darkens the gloom which hangs over the country, no one can discern any termination of this sad state of things, nor see in the future any glimpses of light or hope.

Is not this a faithful, although appalling picture of the United States in 1842? I appeal to all present, whigs and democrats, ladies and gentlemen, to say if it be at all too high colored.

Now let us see what was our real condition only the short time of ten years ago. I had occasion, in February, 1832, in the senate of the United States, when I was defending the American system against the late colonel Hayne, of South Carolina, to describe it; and I refer to this description as evidence of what I believed to be the state of the country at that time. That it conformed to the truth of the case, I appeal with confidence to those now present. On that occasion, among other things, I said:

'I have now to perform the more pleasing task of exhibiting an imperfect sketch of the existing state of the unparalleled prosperity of the country. On a general survey, we behold cultivation extended, the arts flourishing, the face of the country improved, our people fully and profitably employed, and the public countenance

exhibiting tranquillity, contentment, and happiness. And, if we descend into particulars, we have the agreeable contemplation of a people out of debt, land rising slowly in value, but in a secure and salutary degree; a ready, though extravagant market for all the surplus productions of our industry; innumerable flocks and herds browsing and gamboling on ten thousand hills and plains, covered with rich and verdant grasses; our cities expanded, and whole villages springing up, as it were, by enchantment; our exports and our imports increased and increasing; our tonnage, foreign and coastwise, swelling and fully occupied; the rivers of our interior animated by the perpetual thunder and lightning of countless steamboats; the currency sound and abundant; the public debt of two wars nearly redeemed; and, to crown all, the public treasury overflowing, embarrassing congress, not to find subjects of taxation, but to select the objects which shall be liberated from the impost. If the term of seven years were to be selected of the greatest prosperity which this people have enjoyed since the establishment of their present constitution, it would be exactly that period of seven years which immediately followed the passage of the tariff of 1824.'

And that period embraced the whole term of the administration of Mr. John Quincy Adams, which has been so unjustly abused!

The contrast in the state of the country at the two periods of 1832 and 1842, is most remarkable and startling. What has precipitated us from that great height of enviable prosperity down to the lowest depths of pecuniary embarrassment? What has occasioned the wonderful change? No foreign foe has invaded and desolated the country. We have had neither famine nor earthquakes. That there exists a cause there can be no doubt; and I think it equally clear that the cause, whatever it may be, must be a general one; for nothing but a general cause could have produced such wide spread ruin; and every where we behold the

produced the over-trading? What was the cause of speculation? How were the people tempted to abandon the industrious and secure pursuits of life, and embark in doubtful and perilous, but seducing enterprises? That is the important question.

Now, fellow citizens, I take upon myself to show that the people have been far less to blame than the general government, and that whatever of error they committed, was the natural and inevitable consequence of the unwise policy of their rulers. To the action of government is mainly to be ascribed the disorders, embarrassment, and distress, which all have now so much reason to deplore. And, to be yet more specific, I think they are to be fairly attributed to the action of the executive branch of the federal government.

Three facts or events, all happening about the same time, if their immediate effects are duly considered, will afford a clear and satisfactory solution of all the pecuniary evils which now unhappily afflict this country.

The first was the veto of the recharter of the bank of the United States. The second was the removal of the deposits o. the United States from that bank to local banks. And the third was the refusal of the president of the United States, by an arbitrary stretch of power, to sanction the passage of the land bill. These events all occurred, in quick succession, in 1832–3, and each of them deserves particular consideration.

First. When the bank of the United States had fully recovered from the errors of its early administration, and at the period when it was proposed to recharter it, it furnished the best currency that ever existed, possessing not merely unbounded confidence in the United States, but throughout the whole commercial world. No institution was ever more popular, and the utility of a bank of the United States was acknowledged by president Jackson in his veto message, in which he expressly stated, that he could have suggested to congress the plan of an unexceptionable charter, if application had been made to him. And I state as a fact, what many, I am sure, will here remember and sustain, that in the canvass then going on for the presidency, many of his friends in this state gave assurances that, in the event of his reëlection, a bank of the United States would be established.

It was held out to the people that a better currency should be supplied, and a more safe and faithful execution of the fiscal duties towards the government would be performed by the local banks than by the bank of the United States.

What was the immediate effect of the overthrow of that institution? The establishment of innumerable local banks, which sprung up every where, with a rapidity to which we cannot look back without amazement. A respectable document which I now hold in my hand, I believe correctly states, that 'in 1830 the aggregate banking capital of the union was one hundred and forty-five

illion, one hundred and ninety thousand, two hundred and sixty ight dollars. Within two years after the removal of the deposits, e banking capital has swollen to three hundred and thirty-one illion, two hundred and fifty thousand, three hundred and thirty-even dollars, and in 1837 it reached four hundred and forty illion, one hundred and ninety-five thousand, seven hundred and en dollars. Whilst the United States bank was in existence, the ocal banks, not aspiring to the regulation of the currency, were char-ered with small capitals, as occasion and business required. After 1833 they were chartered without necessity, and multiplied eyond example. In December, 1837, there were no less than even hundred and nine state banks. Nearly four hundred banks prung up upon the ruins of the United States bank, and two undred and fifty million dollars of capital was incorporated, to upply the uses formerly discharged by the thirty-five million ollars capital of the bank of the United States. The impulse given o extravagance and speculation by this enormous increase of bank-ng capital, was quickened by the circulars of the treasury depart-nent to these pet state banks that were made the custodiers of the ational revenue.'

A vast proportion of these new banks, more, I believe, than four ifths, were chartered by legislatures in which the democratic party ad the undisputed ascendancy. I well remember that, in this tate, the presses of that party made a grave charge against me, of

revert for a moment to some of the means which were employed to break down the bank of the United States, and to inflict upon the country all the sad consequences which ensued. I shall not stop to expose the motives of the assault upon that institution, and to show that it was because it refused to make itself basely and servilely instrumental to the promotion of political views and objects.

The bank was denounced as a monster, aiming, as was declared, to rob the people of their liberties, and to subvert the government of the country. The bank to subvert the government! Why, how could the bank continue to exist, after the overthrow of that government to which it was indebted for its existence, and in virtue of whose authority it could alone successfully operate? Convulsions, revolutions, civil wars, are not the social conditions most favorable to bank prosperity; but they flourish most when order, law, regularity, punctuality, and successful business prevail.

Rob the people of their liberties! And pray what would it do with them after the robbery was perpetrated? It could not put them in its vaults, or make interest or profit upon them — the leading, if not sole object of a bank. And how could it destroy the liberties of the people, without, at the same time, destroying the liberties of all persons interested or concerned in the bank? What is a bank? It is a corporation, the aggregate of whose capital is contributed by individual shareholders, and employed in pecuniary operations, under the management of official agents, called president, directors, cashier, tellers, and clerks. Now all these persons are usually citizens of the United States, just as much interested in the preservation of the liberties of the country as any other citizens. What earthly motive could prompt them to seek the destruction of the liberty of their fellow-citizens, and with it their own.

The fate of the bank of the United States clearly demonstrated where the real danger to the public liberty exists. It was not in the bank. Its popularity had been great, and the conviction of its utility strong and general, up to the period of the bank veto. Unbounded as was the influence of president Jackson, and undisguised as his hostility was to the bank, he could not prevent the passage through congress of a bill to recharter it. In such favor and esteem was it held, that the legislature of Pennsylvania, in which his friends had uncontrolled sway, almost unanimously recommended the recharter. But his veto came; he blew his whistle for its destruction; it was necessary to sustain his party, which could only be done by sustaining him, and instantly, and every where, down with the bank and huzzah for the veto, became the watch words and the rallying cry of his partisans. That same legislature of Pennsylvania, now, with equal unanimity, approved the destruction of an institution which they had believed to be so indispensable to the public prosperity, and deluded people felt as if they had fortunately escaped a great national calamity!

The veto notwithstanding, the house of representatives, by a rge majority, resolved that the public deposits were safe in the ustody of the bank of the United States, where they were placed, nder the sanction and by the command of the law; and it was ell known at Washington, that this resolution was passed in nticipation, and to prevent the possibility of their removal. In e face and in contempt of this decision of the representatives of e people, and in violation of a positive law, the removal was rdered by the president a few months after, the secretary of the easury having been previously himself removed, to accomplish e object. And this brings me to consider the effect produced pon the business and interests of the country, by the

Second event to which I alluded. It is well known to be the sage of banks, to act upon the standing average amount of their eposits, as upon a permanent fund. The bank of the United tates had so regulated its transactions upon the deposits of the nited States, and had granted accommodations and extended cilities, as far as could be safely done on that basis. The deposits ere removed and dispersed among various local banks, which ere urged by an authority not likely to be disregarded, especially hen seconding, as it did, their own pecuniary interests, to discount nd accommodate freely on them. They did so, and thus these eposits performed a double office, by being the basis of bank cilities, first in the hands of the bank of the United States, and

that would follow — the multiplication of banks, a superabundant currency, rash and inordinate speculation, and a probable ultimate suspension of specie payments. And the public domain was too brilliant and tempting a prize, not to be among the first objects that would attract speculation. In March, 1833, a bill passed both houses of congress, to distribute among the states the proceeds of sales of the public lands. It was a measure of strict justice to the states, and one of sound policy, as it respects the revenue of the United States; but the view which I now propose to take of it, applies altogether to the influence which it would have exerted upon circulation and speculation. It was the constitutional duty of the president to have returned the bill to congress with his objections, if he were opposed to it, or with his sanction, if he approved it; but the bill fell by his arbitrarily withholding it from congress.

Let us here pause and consider what would have been the operation of that most timely and salutary measure, if it had not been arrested. The bill passed in 1833, and in a short time after, the sales of the public lands were made to an unprecedented extent; in so much, that in one year they amounted to about twenty-five millions of dollars, and in a few years, to an aggregate of about fifty millions of dollars. It was manifest, that if this fund, so rapidly accumulating, remained in the custody of the local banks, in conformity with the treasury circular, and with their interests, it would be made the basis of new loans, new accommodations, fresh bank facilities. It was manifest that the same identical sum of money might, as it in fact did, purchase many tracts of land, by making the circuit from the land offices to the banks, and from the banks to the land offices, besides stimulating speculation in other forms.

Under the operation of the measure of distribution, that great fund would have been semi-annually returned to the states, and would have been applied, under the direction of their respective legislatures, to various domestic and useful purposes. It would have fallen upon the land, like the rains of heaven, in gentle, genial, and general showers, passing through a thousand rills, and fertilizing and beautifying the country. Instead of being employed in purposes of speculation, it would have been applied to the common benefit to the whole people. Finally, when the fund had accumulated and was accumulating in an alarming degree, it was distributed among the states by the deposit act, but so suddenly distributed, in such large masses, and in a manner so totally in violation of all the laws and rules of finance, that the crisis of suspension in 1837 was greatly accelerated. This would have been postponed, if not altogether avoided, if the land bill of 1833 had been approved and executed.

To these three causes, fellow-citizens, the veto of the bank of

he United States, with the consequent creation of innumerable ocal banks, the removal of the deposits of the United States from he bank of the United States, and their subsequent free use, and he failure of the land bill of 1833, I verily believe, all, or nearly ll, of the pecuniary embarrassments of the country are plainly ttributable. If the bank had been rechartered, the public deposits allered to remain undisturbed where the law required them to be nade, and the land bill had gone into operation, it is my firm conviction that we should have had no more individual distress and ain than is common, in ordinary and regular times, to a trading nd commercial community.

And do just now take a rapid review of the experiments of our ulers. They began with incontestably the *best* currency in the orld, and promised a *better*. That better currency was to be upplied by the local banks; and in the first stages of the experiment, after the removal of the deposits, they were highly commended rom high authority, for their beneficial and extensive operations in xchange, the financial facilities which they afforded to the government, and so forth. But the day of trouble and difficulty, which ad been predicted, for the want of a United States bank, came. They could not stand the shock, but gave way, and the suspension f 1837 took place. Then what was the course of those same ulers? They had denounced and put down the bank of the United States. It was a monster. They had extolled and lavished praises n the local banks. Now, they turned round against the objects

no! exclaimed many voices.] If all banks were put down, and all bank paper were annihilated, we should have just one half the money that we now have. I am quite sure that one of the immediate causes of our present difficulties, is a defect in quantity as well as the quality of the circulating medium. And it would be impossible, if we were reduced to such a regimen as is proposed by the hard money theorists, to avoid stop laws, relief laws, repudiation, bankruptcies, and perhaps civil commotion.

I have traced the principal causes of the present embarrassed condition of the country, I hope with candor and fairness, and without giving offence to any of my fellow citizens, who may have differed in political opinion from me. It would have been far more agreeable to my feelings to have dwelt, as I did in 1832, during the third year of the first term of president Jackson's administration, upon bright and cheering prospects of general prosperity. I thought it useful to contrast that period with the present one, and to inquire into the causes which have brought upon us such a sad and dismal reverse. A much more important object remains to me to attempt, and that is to point out remedies for existing evils and disorders.

And the first I would suggest, requires the coöperation of the government and the people; it is economy and frugality, strict and persevering economy, both in public and private affairs. Government should incur or continue no expense that can be justly and honorably avoided, and individuals should do the same. The prosperity of the country has been impaired by causes operating throughout several years, and it will not be restored in a day or a year, perhaps not in a period less than it has taken to destroy it. But we must not only be economical, we must be industrious, indefatigably industrious. An immense amount of capital has been wasted and squandered in visionary or unprofitable enterprises, public and private. It can only be reproduced by labor and saving.

The second remedy which I would suggest, and that without which all others must prove abortive or ineffectual, is a sound currency, of uniform value throughout the union, and redeemable in specie upon the demand of the holder. I know of but one mode in which that object can be accomplished, and that has stood the test of time and practical experience. If any other can be devised than a bank of the United States, which should be safe and certain, and free from the influence of government, and especially under the control of the executive department, I should for one gladly see it embraced. I am not exclusively wedded to a bank of the United States, nor do I desire to see one established against the will and without the consent of the people. But all my observation and reflection have served to strengthen and confirm my conviction, that such an institution, emanating from the authority

of the general government, properly restricted and guarded, with such improvements as experience has pointed out, can alone supply a reliable currency.

Accordingly, at the extra session, a bill passed both houses of congress, which, in my opinion, contained an excellent charter, with one or two slight defects, which it was intended to cure by a supplemental bill, if the veto had not been exercised. That charter contained two new, and I think admirable features; one was to separate the operation of issuing a circulation from that of banking, confiding these faculties to different boards; and the other was to limit the dividends of the bank, bringing the excess beyond the prescribed amount, into the public treasury. In the preparation of the charter, every sacrifice was made that could be made to accommodate it, especially in regard to the president. But instead of meeting as in a mutual spirit of conciliation, he fired, as was aptly said by a Virginia editor, upon the flag of truce sent from the capitol.

Congress anxious to fulfil the expectations of the people, another bank bill was prepared, in conformity with the plan of a bank sketched by the acting president in his veto message, after a previous consultation between him and some distinguished members of congress, and two leading members of his cabinet. The bill was shaped in precise conformity to his views, as communicated by those members of the cabinet, and as communicated to others and was submitted to his inspection after it was so prepared; and

another office, and he came into the present one by a lamentable visitation of providence. There had been no such instance occurring under the government. If the whigs were bound to scrutinize his opinions, in reference to an office which no one ever anticipated he would fill, he was bound in honor and good faith to decline the Harrisburgh nomination, if he could not conscientiously coöperate with the principles that brought him into office. Had the president who was elected lived, had that honest and good man, on whose face, in that picture, we now gaze, been spared, I feel perfectly confident that all the measures which the principles of the whigs authorized the country to expect, including a bank of the United States, would have been carried.

But it may be said that a sound currency, such as I have described, is unattainable during the administration of Mr. Tyler. It will be, if it can only be obtained through the instrumentality of a bank of the United States, unless he changes his opinion, as he has done in regard to the land bill.

Unfortunately, our chief magistrate possesses more powers, in some respects, than a king or queen of England. The crown is never separated from the nation, but is obliged to conform to its will. If the ministry holds opinions adverse to the nation, and is thrown into the minority in the house of commons, the crown is constrained to dismiss the ministry, and appoint one whose opinions coincide with the nation. This queen Victoria has recently been obliged to do: and not merely to change her ministry, but to dismiss the official attendants upon her person But here, if the president holds an opinion adverse to that of congress and the nation upon important public measures, there is no remedy but upon the periodical return of the rights of the ballot box.

Another remedy, powerfully demanded by the necessities of the times, and requisite to maintaining the currency in a sound state, is a tariff which will lessen importations from abroad, and tend to increase supplies at home from domestic industry. I have so often expressed my views on this subject, and so recently in the senate of the United States, that I do not think there is any occasion for my enlarging upon it at this time. I do not think that an exorbitant or very high tariff is necessary; but one that shall insure an adequate revenue and reasonable protection; and it so happens that the interests of the treasury and the wants of the people now perfectly coincide. Union is our highest and greatest interest. No one can look beyond its dissolution without horror and dismay. Harmony is essential to the preservation of the union. It was a leading, although not the only motive in proposing the compromise act, to preserve that harmony. The power of protecting the interests of our own country, can never be abandoned or surrendered to foreign nations, without a culpable dereliction of duty. Of this truth, all parts of the nation are every day becom-

g more and more sensible. In the mean time this indispensable ower should be exercised with a discretion and moderation, and a form least calculated to revive prejudices, or to check the ogress of reforms now going on in public opinion.

In connection with a system of remedial measures, I shall only lude to, without stopping to dwell on, the distribution bill, that st and equitable settlement of a great national question, which rung up during the revolutionary war, which has seriously gitated the country, and which it is deeply to be regretted had ot been settled ten years ago, as then proposed. Independent of l other considerations, the fluctuation in the receipts from sales the public lands is so great and constant that it is a resource on hich the general government ought not to rely for revenue. It is r better that the advice of a democratic land committee of the nate, at the head of which was the experienced and distinguished Ir. King, of Alabama, given some years ago, should be followed, at the federal treasury be replenished with duties on imports, ithout bringing into it any part of the land fund.

I have thus suggested measures of relief adapted to the present ate of the country, and I have noticed some of the differences hich unfortunately exist between the two leading parties into hich our people are unhappily divided. In considering the ques- on whether the counsels of the one or the other of these parties e wisest, and best calculated to advance the interest, the honor,

have exhibited a spirit and bearing disorganizing and dangerous to the permanency and stability of our institutions, and I invoke the serious and sober attention to them, of all who are here assembled.

The first I would notice, is the manner in which territories have been lately admitted as states, into the union. The early and regular practice of the government, was for congress to pass previously a law authorizing a convention, regulating the appointment of members to it; specifying the qualification of voters, and so forth. In that way most of the states were received. Of late without any previous sanction or authority from congress, several territories have proceeded of themselves to call conventions, form constitutions, and demand admission into the union; and they were admitted. I do not deny that their population and condition entitled them to admission; but I insist that it should have been done in the regular and established mode. In the case of Michigan, aliens were allowed to vote, as aliens have been allowed to become preëmptioners in the public lands. And a majority in congress sanctioned the proceeding. When foreigners are naturalized and incorporated as citizens in our community, they are entitled to all the privileges, within the limits of the constitution, which belong to a native born citizen; and, if necessary, they should be protected, at home and abroad — the thunder of our artillery should roar as loud and as effectually in their defence as if their birth were upon American soil. But I cannot but think it wrong and hazardous, to allow aliens, who have just landed upon our shores, who have not yet renounced their allegiance to foreign potentates, nor sworn fidelity to our constitution, with all the influences of monarchy and anarchy about them, to participate in our elections, and affect our legislation.

Second, the New Jersey election case, in which the great seal of the state, and the decision of the local authorities were put aside by the house of representatives, and a majority thus secured to the democratic party.

Third, nullification, which is nothing more nor less than an assumption by one state to abrogate within its limits a law passed by the twenty-six states in congress assembled.

Fourth, a late revolutionary attempt in Maryland to subvert the existing government, and set up a new one. without any authority of law.

Fifth, the refusal of a minority in the legislature of Tennessee, to coöperate with the majority, (their constitution requiring the presence of two thirds of the members,) to execute a positive injunction of the United States to appoint two United States senators. In principle, that refusal was equivalent to announcing the willingness of that minority to dissolve the union. For if thirteen or fourteen of the twenty-six states were to refuse altogether to elect senators, a dissolution of the union would be the

onsequence. That majority, for weeks together, and time after time, eliberately refused to enter upon the election. And if the union s not in fact dissolved, it is not because the principle involved ould not yield to a dissolution, but because twelve or thirteen ther states have not like themselves refused to perform a high onstitutional duty. And why did they refuse? Simply because ey apprehended the election to the senate of political opponents. he seats of the two Tennessee senators in the United States enate, are now vacant, and Tennessee has no voice in that branch f congress, in the general legislation. One of the highest comliments which I ever received, was to have been appointed, at a opular meeting in Tennessee, one of her senators, in conjunction ith a distinguished senator from South Carolina, with all the uthority that such an appointment could bestow. I repeat here n expression of my acknowledgments for the honor, which I ost *ambitiously* resigned, when I gave up my dictatorship, and y seat as a Kentucky senator. [A general laugh.]

Sixth. Then there is repudiation, that foul stain upon the merican character, cast chiefly by the democrats of Mississippi, and hich it will require years to efface from our bright escutcheon.

Seventh, the support given to executive usurpations, and the xpunging the records of the senate of the United States.

Eighth, the recent refusal of state legislatures to pass laws to arry into effect the act of distribution, an act of congress passed cording to all the forms of the constitution, after ample discussion

into the union. Under it, her Greens and Perrys and other distinguished men were born and rose to eminence. The legislature had called a convention to remedy whatever defects it had, and to adapt it to the progressive improvement of the age. In that work of reform the Dorr party might have coöperated; but not choosing so to coöperate, and in wanton defiance of all established authority, they undertook subsequently to call another convention. The result was two constitutions, not essentially differing on the principal point of controversy, the right of suffrage.

Upon submitting to the people that which was formed by the regular convention, a small majority voted against it, produced by a union in casting votes, between the Dorr party and some of the friends of the old charter, who were opposed to any change. The other constitution being also submitted to the people, an apparent majority voted for it, made up of every description of votes, legal and illegal, by proxy and otherwise, taken in the most irregular and unauthorized manner.

The Dorr party proceeded to put their constitution in operation by electing him as the governor of the state, members to the mock legislature, and other officers. But they did not stop here; they proceeded to collect, to drill, and to marshal a military force, and pointed their cannon against the arsenal of the state.

The president was called upon to interpose the power of the union to preserve the peace of the state, in conformity with an express provision of the federal constitution. And I have as much pleasure in expressing my opinion that he faithfully performed his duty, in responding to that call, as it gave me pain to be obliged to animadvert on other parts of his conduct.

The leading presses of the democratic party at Washington, Albany, New York, Richmond, and elsewhere, came out in support of the Dorr party, encouraging them in their work of rebellion and treason. And when matters had got to a crisis, and the two parties were preparing for a civil war, and every hour it was expected to blaze out, a great Tammany meeting was held in the city of New York, headed by the leading men of the party, the Cambrelengs, the Vanderpools, the Allens, &c., with a perfect knowledge that the military power of the union was to be employed, if necessary, to suppress the insurrection, and, notwithstanding, they passed resolutions tending to awe the president, and to countenance and cheer the treason.

Fortunately, numbers of the Dorr party abandoned their chief; he fled, and Rhode Island, unaided by any actual force of the federal authority, proved herself able alone to maintain law, order, and government, within her borders.

I do not attribute to my fellow citizens here assembled, from whom I differ in opinion, any disposition to countenance the revolutionary proceedings in Rhode Island. I do not believe that they

pprove it. I do not believe that their party generally could pprove it, nor some of the other examples of a spirit of disorganation which I have enumerated; but the misfortune is, in time f high party excitement, that the leaders commit themselves, and nally commit the body of their party, who perceive that unless ey stand by and sustain their leaders, a division, and perhaps estruction of the party, would be the consequence. Of all the prings of human action, party ties are perhaps the most powerful. nterest has been supposed to be more so; but party ties are more nfluential, unless they are regarded as a modification of imaginary nterest. Under their sway, we have seen, not only individuals, but hole communities abandon their long cherished interests and rinciples, and turn round and oppose them with violence.

Did not the rebellion in Rhode Island find for its support a precedent established by the majority in congress, in the irregular dmission of territories, as states, into the union, to which I have ereto fore alluded? Is there not reason to fear that the example hich congress had previously presented, encouraged the Rhode sland rebellion?

It has been attempted to defend that rebellion, upon the doctrines f the American Declaration of Independence; but no countenance to it can be fairly derived from them. That declaration sserts, it is true, that whenever a government becomes destructive f the ends of life, liberty, and the pursuit of happiness, for the ecurity of which it was instituted, it is the right of the *people* to

ment, and to set up a new one, to be practically exercised? Our revolutionary ancestors did not tell us by words, but they proclaimed it by gallant and noble deeds. Who are *the people* that are to tear up the whole fabric of human society, whenever and as often as caprice or passion may prompt them? When all the arrangements and ordinances of existing and organized society are prostrated and subverted, as must be supposed in such a lawless and irregular movement as that in Rhode Island, the established privileges and distinctions between the sexes, between the colors, between the ages, between natives and foreigners, between the sane and the insane, and between the innocent and the guilty convict, all the offspring of positive institutions, are cast down and abolished, and society is thrown into one heterogenous and unregulated mass. And is it contended that the major part of this Babel congregation is invested with the right to build up, at its pleasure, a new government? That as often, and whenever society can be drummed up and thrown into such a shapeless mass, the major part of it may establish another, and another new government, in endless succession? Why, this would overturn all social organization, make revolutions — the extreme and last resort of an oppressed people — the commonest occurrences of human life, and the standing order of the day. How such a principle would operate, in a certain section of this union, with a peculiar population, you will readily conceive. No community could endure such an intolerable state of things any where, and all would, sooner or later, take refuge from such ceaseless agitation, in the calm repose of absolute despotism.

I know of no mode by which an existing government can be overthrown and put aside, and a new one erected in its place, but by the consent or authority of that government, express or implied, or by forcible resistance, that is, revolution.

Fellow-citizens, I have enumerated these examples of a dangerous spirit of disorganization, and disregard of law, with no purpose of giving offence, or exciting bitter and unkind feelings, here or elsewhere, but to illustrate the principles, character, and tendency of the two great parties into which this country is divided. In all of these examples, the democratic party, as it calls itself, (a denomination to which I respectfully think it has not the least just pretension,) or large portions of that party, extending to whole states, united with apparent cordiality. To all of them the whig party was constantly and firmly opposed. And now let me ask you, in all candor and sincerity, to say truly and impartially to which of these two parties can the interests, the happiness, and the destinies of this great people be most safely confided? I appeal especially, and with perfect confidence, to the candor of the real, the ancient, and long-tried democracy — that old republican party with whom I stood, side by side, during some of the darkest days of the republic, in seasons of both war and peace.

Fellow-citizens of all parties! The present situation of our country is one of unexampled distress and difficulty; but there is no occasion for any despondency. A kind and bountiful Providence has never deserted us; punished us he perhaps has, for our neglect of his blessings and our misdeeds. We have a varied and fertile soil, a genial climate and free institutions. Our whole land is covered, in profusion, with the means of subsistence and the comforts of life. Our gallant ship, it is unfortunately true, lies helpless, tossed on a tempestuous sea, amidst the conflicting billows of contending parties, without a rudder and without a faithful pilot. But that ship is our country, embodying all our past glory, all our future hopes. Its crew is our whole people, by whatever political denomination they are known. If she goes down, we all go down together. Let us remember the dying words of the gallant and lamented Lawrence. Don't give up the ship. The glorious banner of our country, with its unstained stars and stripes, still proudly floats at its mast-head. With stout hearts and strong arms we can surmount all our dificulties. Let us all, all, rally round that banner, and firmly resolve to perpetuate our liberties and regain our lost prosperity.

Whigs! Arouse from the ignoble supineness which encompasses you; awake from the lethargy in which you lie bound; cast from you that unworthy apathy which seems to make you indifferent to the fate of your country. Arouse! awake! shake off the dew drops that glitter on your garments and once more

# ON SLAVERY AND ABOLITION.

## AT RICHMOND, INDIANA, OCTOBER 1, 1842.

[In the autumn of 1842, Mr. Clay being on a visit to the state of Indiana, the occasion of his meeting a large concourse of people, was seized upon, for the purpose of presenting him with a petition, signed by many of his political opponents, praying him to emancipate his slaves, in Kentucky. Instead of treating the matter with indignation, as was perhaps expected by some, Mr. Clay replied with good humor to Mr. Mendenhall, who had been selected to present him with the address, in the following words.]

I HOPE that Mr. Mendenhall may be treated with the greatest forbearance and respect. I assure my fellow-citizens here collected, that the presentation of the petition has not occasioned the slightest pain, nor excited one solitary disagreeable emotion. If it were to be presented to me, I prefer that it should be done in the face of this vast assemblage. I think I can give it such an answer as becomes me and the subject of which it treats. At all events, I entreat and beseech my fellow-citizens, for their sake, for my country's sake, for my sake, to offer no disrespect, no indignity, no violence, in word or deed, to Mr. Mendenhall.

I will now, sir, make to you and to this petition such a response as becomes me. Allow me to say that I think you have not conformed to the independent character of an American citizen in presenting a *petition* to *me*. I am, like yourself, but a private citizen. A petition, as the term implies, generally proceeds from an inferior in power or station to a superior; but between us there is entire equality. And what are the circumstances under which you have chosen to offer it? I am a total stranger, passing through your state, on my way to its capital, in consequence of an invitation with which I have been honored to visit it, to exchange friendly salutations with such of my fellow citizens of Indiana as think proper to meet me, and to accept of their hospitality. Anxious as I am to see them, and to view parts of this state which I had never seen, I came here with hesitation and reluctance, because I apprehended that the motives of my journey might be misconceived and perverted. But when the fulfilment of an old promise to visit Indianapolis was insisted upon, I yielded to the solicitations of friends, and have presented myself among you.

Such is the occasion which has been deliberately selected for tendering this petition to me. I am advanced in years, and neither myself nor the place of my residence is altogether unknown to the world. You might at any time within these last twenty-five or thirty years, have presented your petition to me at Ashland. If you had gone there for that purpose, you should have been received and treated with perfect respect and liberal hospitality.

Now, Mr. Mendenhall, let us reverse conditions, and suppose that you had been invited to Kentucky to partake of its hospitality; and that, previous to your arrival, I had employed such means as I understand have been used to get up this petition, to obtain the signatures of citizens of that state to a petition to present to you to relinquish your farm or other property, what would you have thought of such a proceeding? Would you have deemed it courteous and according to the rites of hospitality?

I know well, that you and those who think with you, controvert the legitimacy of slavery, and deny the right of property in slaves. But the law of my state and other states has otherwise ordained. The law may be wrong in your opinion, and ought to be repealed; but then you and your associates are not the law-makers for us, and unless you can show some authority to nullify our laws, we must continue to respect them. Until the law is repealed, we must be excused for asserting the rights — ay, the property in slaves — which it sanctions, authorizes, and vindicates.

and in organized societies, to keep it in view as a great fundamental principle. But, then, I apprehend that in no society that ever did exist, or ever shall be formed, was or can the equality asserted among the members of the human race, be practically enforced and carried out. There are portions of it, large portions, women, minors, insane, culprits, transient sojourners, that will always probably remain subject to the government of another portion of the community.

That declaration, whatever may be the extent of its import, was made by the delegations of the thirteen states. In most of them slavery existed, and had long existed, and was established by law. It was introduced and forced upon the colonies by the paramount law of England. Do you believe that, in making that declaration, the states that concurred in it intended that it should be tortured into a virtual emancipation of all the slaves within their respective limits? Would Virginia and the other southern states have ever united in a declaration which was to be interpreted into an abolition of slavery among them? Did any one of the thirteen states entertain such a design or expectation? To impute such a secret and unavowed purpose would be to charge a political fraud upon the noblest band of patriots that ever assembled in council; a fraud upon the confederacy of the revolution; a fraud upon the union of those states, whose constitution not only recognized the lawfulness of slavery, but permitted the importation of slaves from Africa, until the year 1808. And I am bold to say, that, if the doctrines of ultra political abolitionists had been seriously promulgated at the epoch of our revolution, our glorious independence would never have been achieved — never, never.

I know the predominant sentiment in the free states is adverse to slavery; but, happy in their own exemption from whatever evils may attend it, the great mass of our fellow-citizens there do not seek to violate the constitution, or to disturb the harmony of these states. I desire no concealment of my opinions in regard to the institution of slavery. I look upon it as a great evil, and deeply lament that we have derived it from the parental government, and from our ancestors. I wish every slave in the United States was in the country of his ancestors. But here they are, and the question is how they can be best dealt with? If a state of nature existed, and we were about to lay the foundations of society, no man would be more strongly opposed than I should be, to incorporate the institution of slavery among its elements. But there is an incalculable difference between the original formation of society and a long existing organized society, with its ancient laws, institutions, and establishments. Now, great as I acknowledge, in my opinion, the evils of slavery are, they are nothing, absolutely nothing, in comparison with the far greater evils which would inevitably flow from a sudden, general, and indiscriminate emancipation. In some of

the states the number of slaves approximates towards an equality with that of the whites; in one or two they surpass them. What would be the condition of the two races in those states, upon the supposition of an immediate emancipation? Does any man suppose that they would become blended into one homogeneous mass? Does any man recommend amalgamation — that revolting admixture, alike offensive to God and man; for those whom He, by their physical properties, has made unlike and put asunder, we may, without presumptuousness, suppose were never intended to be joined together in one of the holiest rites. And let me tell you, sir, if you do not already know it, that such are the feelings — prejudice, if you please, (and what man, claiming to be a statesman, will overlook or disregard the deep-seated and unconquerable prejudices of the people,) — in the slave states, that no human law would enforce a union between the two races.

What then would certainly happen? A struggle for political ascendancy; the blacks seeking to acquire, and the whites to maintain possession of the government. Upon the supposition of a general immediate emancipation in those states where the blacks outnumber the whites, they would have nothing to do but to insist upon another part of the same declaration of independence, as Dorr and his deluded democratic followers recently did in Rhode Island; according to which, an undefined majority have the right, at their pleasure, to subvert an existing government, and institute a new one in its place, and then the whites would be brought in

that charge, and sending them forth into the world, with the boon of liberty, to end a wretched existence in starvation? Another class is composed of helpless infants, with or without improvident mothers. Do you believe, as a christian, that I should perform my duty towards them by abandoning them to their fate? Then there is another class who would not accept their freedom if I would give it to them. I have for many years owned a slave that I wished would leave me, but he will not. What shall I do with that class?

What my treatment of my slaves is you may learn from Charles, who accompanies me on this journey, and who has travelled with me over the greater part of the United States, and in both the Canadas, and has had a thousand opportunities, if he had chosen to embrace them, to leave me. Excuse me, Mr. Mendenhall, for saying that my slaves are as well fed and clad, look as sleek and hearty, and are quite as civil and respectful in their demeanor, and as little disposed to wound the feelings of any one, as you are.

Let me recommend you, sir, to imitate the benevolent example of the society of Friends, in the midst of which you reside. Meek, gentle, imbued with the genuine spirit of our benign religion, while in principle they are firmly opposed to slavery, they do not seek to accomplish its extinction by foul epithets, coarse and vulgar abuse, and gross calumny. Their ways do not lead through blood, revolution, and disunion. Their broad and comprehensive philanthropy embraces, as they believe, the good and the happiness of the white as well as the black race; giving to one their commiseration, to the other their kindest sympathy. Their instruments are not those of detraction and of war, but of peace, persuasion, and earnest appeals to the charities of the human heart. Unambitious, they have no political objects or purposes to subserve. My intercourse with them throughout life has been considerable, interesting, and agreeable; and I venture to say, nothing could have induced them as a society, whatever a few individuals might have been tempted to do, to seize the occasion of my casual passage through this state to offer me a personal indignity.

I respect the motives of rational abolitionists, who are actuated by a sentiment of devotion to human liberty, although I deplore and deprecate the consequences of the agitation of the question. I have even many friends among them. But they are not monomaniacs, who, surrendering themselves to a single idea, look altogether to the black side of human life. They do not believe that the sum total of all our efforts and all our solicitude should be abolition. They believe that there are duties to perform towards the white man as well as the black. They want good government, good administration, and the general prosperity of their country.

I shall, Mr. Mendenhall, take your petition into respectful and deliberate consideration; but before I come to a final decision, I

hould like to know what you and your associates are willing to lo for the slaves in my possession, if I should think proper to iberate them. I own about fifty, who are probably worth fifteen housand dollars. To turn them loose upon society without ny means of subsistence or support would be an act of cruelty. Are you willing to raise and secure the payment of fifteen thousand lollars for their benefit, if I should be induced to free them? The security of the payment of that sum would materially lessen he obstacle in the way of their emancipation.

And now, Mr. Mendenhall, I must take respectful leave of you. We separate, as we have met, with no unkind feelings, no excited nger or dissatisfaction on my part, whatever may have been your notives, and these I refer to our common Judge above, to whom ve are both responsible. Go home, and mind your own business, nd leave other people to take care of theirs. Limit your benevolent exertions to your own neighborhood. Within that circle ou will find ample scope for the exercise all your charities. Dry p the tears of the afflicted widows around you, console and comfort the helpless orphan, clothe the naked, and feed and help the oor, black and white, who need succor; and you will be a better nd wiser man than you have this day shown yourself.

# ON THE ADMISSION OF CALIFORNIA,

AND OTHER MATTERS CONNECTED WITH

# SLAVERY IN THE STATES AND TERRITORIES.

IN THE SENATE OF THE UNITED STATES, JANUARY 29, 1850.

[THE thirty-first congress commenced its session in the midst of great excitement, principally in relation to the question of slavery, and more particularly in connection with California, which newly-acquired territory was then seeking admission into the Union as a state. Mr. Clay had been induced to return again to the senate, and his genius and self-sacrifice did more, perhaps, to control the elements of discord, and reconcile contending factions, than the labors of any other single individual. Many projects were submitted, which were *nearly* unexceptionable; but it remained for Mr. Clay to embody in a series of resolutions such conciliatory propositions as ultimately met the approval of all who were desirous of 'promoting the greatest good of the greatest number.' We have not been able to procure a perfect copy of his speech on the occasion of submitting these resolutions, but the following abstract will afford a tolerably correct idea of what was said.]

MR. PRESIDENT: I hold in my hand a series of resolutions, which I desire to present to the consideration of the senate. Taken together, they propose an amicable arrangement of all the questions in controversy between the Free and Slave states, growing out of the subject of the institution of slavery. It is not my intention at this time to enter into a full and elaborate discussion of each of the resolutions, as proposing a system of measures; but I desire to present a few observations upon each resolution, for the purpose of placing them fairly and fully before the senate of the country;—and I may add, with the indulgence of the senate, towards the conclusion of my remarks, some observations about the state of the country, and the questions to which the resolutions relate, whether they shall or shall not meet with the approbation and concurrence of the senate, as I most earnestly hope they may;—as I sincerely trust they will. I trust that, at least some portion of that time which I have devoted with careful deliberation to the preparation of these resolutions, and to the presentation of this great national scheme of national compromise and harmony,—I hope, I say, that some portion of that time will be employed by each senator before he pronounces against the proposition. These resolutions are preceded by a preamble as follows:

It being desirable, for the peace, concord, and harmony of the Union of these states, to settle and adjust amicably, all questions of controversy between them arising out of the institution of slavery, upon a fair equality and just basis; therefore—

FIRST—*Resolved*, That California, with suitable boundaries, ought, upon her application, to be admitted as one of the states of the Union, without the imposition by congress of any restriction to the exclusion or introduction of slavery within those boundaries.

It must be acknowledged that there has been some irregularity in the movements in California, which have resulted in the formation of her Constitution. It was not preceded by any action of congress authorizing a convention, and designating the boundaries of the proposed state, according to all the cases of the admission of new states into this Union, which were admitted prior to that of Michigan, if I am not mistaken, which, unauthorized by congress, undertook to form for herself a Constitution, and to knock at the door of congress for admission into the Union. I was myself at the time, I recollect, when Michigan presented herself, opposed, in consequence of that deviation from the early practice of the government, to her admission. The majority determined otherwise, and it must be in candor owned, by all men, that California has much more reason to do what she has done, unsanctioned and unauthorized by a previous act of congress, than Michigan had to do what she did. Sir, notwithstanding the irregularity of the admission of Michigan into the Union, it has been a happy event. She forms now one of the brightest states of this glorious confederacy. She has sent here to mingle in our councils senators and representatives so distinguished, that we may all associate with them with pride, with pleasure, and satisfaction; and I trust that if California, irregular as her previous action may have been, in the adoption of a Constitution, but more justifiable than was the action of Michigan, if she also shall be admitted, as proposed by this first resolution, with suitable limits, she, too, may make her contribution of wisdom, patriotism and good feeling to this body, to conduct the affairs of this great and boundless republic. The resolution proposes her admission when she applies. There is no intention on my part to anticipate such an application, but I thought it right to present this resolution as a part of the general plan on which I propose the adjustment of this unhappy question. The second resolution is as follows:

SECOND—*Resolved*, That as slavery does not exist by law, and is not likely to be introduced into any of those territories acquired by the United States from the republic of Mexico, it is inexpedient for congress to provide, by law, either for its introduction into, or its exclusion from, any part of the said territory: and that appropriate territorial governments ought to be established by congress, in all of the said territories, not assigned as the boundaries of this proposed state of California, without the abolition of any restrictions or condition on the subject of slavery.

Sir, it proposes the declaration of two truths, one of law and the other of fact. The truth of law which it declares is, that there does not exist, at the present time, slavery within any portion of the territory acquired from Mexico. When I say what that truth is, I speak my own deliberate and solemn conviction. I am aware that

some gentlemen have held a different doctrine, but I persuade myself that they themselves, when they come to review the whole ground, will see sufficient reason for a change or modification of their opinion; and if they adhere to it, they will be found to compose a very small minority of the whole mass of the people of the United States. The next truth which the resolution asserts is, that slavery is not likely to be introduced into any portion of that territory. That is a matter of fact, with all the evidence upon which the fact rests, which, I suppose, is as accessible to other senators as to myself. I must say that from all I have heard or read, from all the witnesses that I have seen and conversed with, from all that has transpired and is transpiring, I do believe that not within one foot of the territory acquired from Mexico will slavery ever be planted; and I believe it could not be done by the force and power of public authority. Facts are daily transpiring to justify this conclusion. I invite senators, from the free states especially, to consider what has occurred since the last session, and even since we have left our respective constituencies, without an opportunity of our own of consulting with them upon that great and momentous fact. The fact is that California herself, although it was asserted and predicted that she never would establish slavery when she came to be a state, has in a convention, by a unanimous vote, declared against the introduction of slavery within her limits. I think, sir, taking that leading fact into consideration, with all the evidence which has reached me, I am warranted in the conclusion which constitutes the second truth that I have stated in this resolution, that slavery is not likely to be introduced into any of our newly-acquired territories, and the latter part of the resolution asserts that it is the duty of congress to 'establish appropriate territorial governments within all that territory, exclusive of California, not embracing in the acts by which these governments shall be constituted, either a prohibition or an admission of slavery.' Much as I am disposed to defer to high authority—anxious as I really am to find myself in a position which would enable me to coöperate heartily with other departments of the government in conducting the affairs of this great people—I cannot concur in the propriety of a dereliction of those territories—of an abandonment of them, leaving them, without government, to all those scenes of disorder, confusion and anarchy, which, I regret to say, with respect to some of them, there is too much reason to anticipate will arise. It is the duty—the solemn—I was going to add, almost the sacred duty of congress—to legislate for that people, if they can; and, at all events, to attempt to legislate for them, and to give them the benefit of law, order and security.

The next resolutions, sir, are the third and fourth, which, having an immediate connection with each other, should be read together:

THIRD—*Resolved*, That the western boundary of the state of Texas ought to be fixed on the Rio del Norte, commencing one marine league from its mouth, and running up that river to the southern line of New Mexico, thence with that line

eastwardly, and continuing in the same direction, to the line as established between the United States and Spain, excluding any portion of New Mexico, whether laying on the east or west of that river.

FOURTH—*Resolved*, That it be proposed to the state of Texas that the United States will provide for the payment of all that portion of all the legitimate and *bona fide* public debts of that state, contracted prior to its annexation to the United States, and for which the duties on foreign imports were pledged by the said state to its creditors, not exceeding the sum of —— dollars, in consideration of the duties so pledged having been no longer applicable to that object after the said annexation, but having thenceforward become payable to the United States; and upon the condition, also, that the said state shall, by some solemn and authentic act of her legislature, or of a convention, relinquish to the United States any claim which it has to any part of New Mexico.

Mr. Clay did not intend to go into the complex question as to what were the due limits of Texas. His opinion was that Texas has not a good title to any portion of what is called New Mexico; but he was free to admit that, looking at the ground which her senators assumed, the law of Texas of '35, the treaty with Santa Anna, and so on—looking to all these facts, but not yielding to them all the force which gentlemen claimed for them, he must say that there was plausibility in the claim which she sets up. He proposed then, that whether the Neuces or the Bravo is, or is not, the boundary of Texas, that her western limit shall be on the Del Norte, from its mouth to the mouth of the Sabine. He proposed also, in connection with this decision of the question of boundary, that congress shall pay the debts of Texas, for the liquidation of which the duties on foreign goods imported into Texas were pledged prior to annexation.

After some remarks relative to the circumstances connected with the contraction of these debts by Texas, Mr. Clay said, in his humble opinion, he thought if there was justice or truth, we owe to the creditors of Texas the duty of reimbursing them for money loaned upon the pledges of those revenues, which were cut off by annexation. He proposed, also, that Texas should, for the consideration mentioned, relinquish any claim she may have to any portion of New Mexico. He was willing to give something for even an imperfect claim of this kind for the sake of peace.

The fifth and sixth resolutions were as follows:

FIFTH—*Resolved*, That it is inexpedient to abolish slavery in the District of Columbia, whilst that institution continues to exist in the state of Maryland, without the consent of that state, without the consent of the people of the District, and without just compensation to the owners of slaves within the District.

SIXTH—*Resolved*, That it is expedient to prohibit within the District the slave trade in slaves brought into it from states or places beyond the limits of the District, either to be sold therein, as merchandise, or to be transported to other markets without the District of Columbia.

The first of these, said Mr. Clay, simply asserted that slavery ought not to be abolished in the Federal District, except on the conditions named. The sixth resolution expressed the expediency of prohibiting the slave trade in the District. He did not mean to inter-

fere with the sale of slaves, from one family to another in the District; the slave trade which he proposed to prohibit was that which Mr. Randolph, forty years ago, pronounced an abomination. It was a mistake on the part of the North, if they supposed that the people of the South generally looked upon the slave trader, or his occupation, with complacence. The slave dealer was frequently excluded from association with the respectable and worthy in the South. He proposed that the slave trader should go to other parts to pursue his calling—that he should not be permitted to erect his prisons here, and put on his chains, and sometimes shock the feelings by their trains of manacled beings through our streets and avenues. Neither should they bring them here. There was no necessity for it, and it ought to be prohibited.

The seventh resolution related to a matter now under discussion in the senate, and he would refrain from any general remarks upon it. It was as follows:

SEVENTH—*Resolved*, That more effectual provision ought to be made by law, according to the requirements of the Constitution, for the restitution and delivery of persons bound to service or labor, in any state, who may escape into any other state or territory of this Union.

The eighth and last resolution provided that congress has no power to prohibit the trade in slaves between the *states*. It was as follows:

EIGHTH—*Resolved*, That congress has no power to prohibit or obstruct the trade in slaves between the slaveholding states, and that the admission or exclusion of slaves brought from one into another of them, depends exclusively upon their own particular law.

It was obvious that no legislation was intended as a consequence of the resolution; it merely asserted a truth. He had thought that, in looking at this whole subject, it was fit and proper to resort to great and fundamental principles, to keep them before the mind, that they might not violate them. These resolutions involved no sacrifice of any principle; they were founded upon a basis of mutual forbearance and concession—a concession not of matters of principle, but matters of feeling merely. He thought, in view of all the circumstances, a more liberal concession might be expected from the free states than could be asked of the South; and, truly, with gentlemen from the North this question was an abstraction, while with the people of the South it was a principle involving their property, and, as a large portion of them believed, of their prosperity and peace. The North, too, was numerically more powerful, and greatness and magnanimity should always go together. Mr. Clay concluded with a most eloquent appeal in behalf of harmony, peace, mutual concessions, and forbearance, for the sake of the Union. In the course of his remarks, he exhibited a sacred relic—a piece of the coffin of Washington—presented that morning, and submitted some thrilling

observations relative to the distinguished dead, and the spirit which he, if upon the stage of action, would urge in the settlement of the momentous question under discussion.

* * * * *

Mr. Clay said, his proposition was not to take absolutely from Texas the territory which she claimed; it made a proposition to Texas for her consideration. He had expressed, it was true, his own opinion that the title of Texas was not good to the territory in question, and at the same time he would be happy to discuss that question.

In the course of a conversation which ensued between Mr. Clay and Mr. Foote, the latter asserted that the faith of congress was pledged to all the Southern states, and not Maryland alone, for the preservation of slavery in the District.

*Mr. Clay.* Suppose slavery be abolished in Maryland to-morrow, have we no power to abolish it here?

* * * * *

Mr. Mason, of Virginia, and Mr. Davis, of Mississippi, expressed their determination never to sanction such a compromise as that embraced in the resolutions which had been offered. They also indulged in some reflections upon the course of Mr. Clay, as a senator from a slave state.

Mr. Clay replied briefly, premising by saying, in answer to the reflections cast by the senators from Virginia and Mississippi (Mr. Mason and Mr. Davis,) I tell these gentlemen that I know my duties, and I mean to express my opinions, fearless of all mankind. He also said—Coming from a slave state, as I do, no earthly power can ever compel me to vote for the positive introduction of slavery, either north or south of the Missouri Compromise,—*No, Sir*—No!

Mr. Clay desired to say, that these were not abstract propositions, but designed for positive action, by their reference to appropriate committees, who shall report bills in relation to the several subjects requiring legislative action.

# ON THE CONSTITUTION OF CALIFORNIA,

AND IN REPLY TO SOME

## REMARKS ON HIS INTERCOURSE WITH OTHER SENATORS.

IN THE SENATE OF THE UNITED STATES, FEB. 15, 1850.

[DURING the progress of the debate on the resolutions submitted by Mr. Clay, President Taylor transmitted to congress a message, apprising that body that he had received the constitution adopted by the people of California, accompanied with an application for admission as a state into the Union. The reference of this message was warmly discussed; and while it was under consideration, Mr. Clemens, of Alabama, indulged in several unwarrantable 'flings' at Mr. Clay, among other things expressing his surprise at the 'fellow-feeling' which existed between him and Mr. Benton. This drew forth the following rejoinder, in which other matters are collaterally noticed. (It may be proper to state here that the resolutions of Mr. Clay, together with several other propositions from different sources, were finally referred to a committee of thirteen, which was chosen by ballot, and of which Mr. C. was elected chairman.)]

Mr. Clay rose to reply to one of the remarks of the senator from Alabama, Mr. Clemens. What right had the senator to animadvert upon a conference held between the senator from Missouri (Mr. Benton) and him? It was very true that for several years there did exist other than the most cordial feeling between him and Mr. Benton—that a system of non-intercourse was established between them, if gentlemen pleased so to call it. Some three years ago they had come together, having made peace with each other, as Mr. Clay wished he might be able to do with all the world; but with respect to intimations of any mutual deliberation and consideration of measures proposed to be introduced, he had to say, that there was nothing of the kind; he had never seen or heard any thing in relation to the bill proposed and introduced by Mr. Benton, proposing to reduce the boundaries of Texas, until it was brought into the senate. On the other hand, Mr. Benton had never seen, heard or thought, so far as he knew, of the series of resolutions recently introduced by him. What, then, had the senator who had denounced their intercourse to go upon? Was he to speculate upon the object of that private conference, and to make such deductions as seemed to him to be

proper? He had no right so to do, and the conclusion showed how incorrect his deductions were. He would repeat that there was no interchange of opinion between him and Mr. Benton at all, in relation to their respective projects. It was true, that at the time alluded to, they did converse together upon the proper dispositions of subjects coming before the senate, but what right had others to attempt to place a construction upon their motives? He must protest against submitting his private intercourse to any such test as that. He was, and had been so deeply impressed with a sense of the awful dangers which menace the existence of the government, that if the senator had been his most bitter enemy, and had come to him to consider the means best calculated to rescue the common country from impending danger, he would have counselled with him, as with his friend—if by so doing he might hope to accomplish so desirable an end. Mr. Clay desired to notice one or two other points to which the senator had alluded. He (Mr. Clay) had said, that in the admission of California there was no concession from either side:—true, the North would get what she wanted; but it would be from causes not under the control of congress, and not by concession. It had been said that, if received with her inhibition of slavery, congress would be responsible for it. He proceeded to show that this was not true, but that if congress passed laws allowing the people of California to frame a constitution and erect a state, congress would then more reasonably be held responsible for any act decided upon by the people, with reference to the institution of slavery. He had admitted that there was some irregularity in the action taken by California; but was there not good ground for excuse for this child, which, having been abandoned by its natural parent, had adopted the necessary measures for her own protection, and now came back again, asking its neglectful parent to receive it into the family of states? Similar irregularities had been overlooked in the case of Michigan, notwithstanding the necessities of her situation were by no means commensurate with those of the people of the Pacific—the former had a form of government, under which she had existed and found peace and security for years—the latter were without law or means of protection. A sentiment had been reiterated in the senate to-day, which he had heard, alas! too often, and which he never heard without a shudder. The senate was told that, in a certain contingency, the South were to take a specific course, regardless of consequences. Was that true? For one, he knew of no condition in which man could be placed, either on the boundless prairies of the west, in the midst of the howling winds and lashing fury of the ocean storm, or in the deliberative body—none in which a moral, rational, accountable being could take a step regardless of consequences. It was because he did regard consequences the most important, that he was led to make every effort in his power to avert the greatest of human calamities—a consequence fraught with evil, not to his country alone, but to the cause of humanity throughout the world.

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Mr. Foote made some remarks in vindication of his observations in relation to the recent intercourse between Mr. Benton and Mr. Clay; in the course of which he suggested to Mr. Clay that there was sometimes something in his demeanor, when excited in debate, which had the appearance of menace. He also alluded to a speech made by that senator eleven years ago, in which he said that certain acts, if persisted in, would dissolve the Union, and dissolve it in blood. Mr. F. went on at length with some personal remarks upon Mr. Clay, Mr. Seward and Mr. Benton.

Mr. Clay said a few words in reply to Mr. Foote's remarks about the intercourse between him and Mr. Benton, and in the course of a few observations, suggested to him the impropriety of attempting to draw deductions from such private intercourse. He reminded Mr. Foote that he himself that morning had come over to him, and held a long conversation with him, in relation to the difficulties which concerned the affairs of the country,—and asked him whether it would not have been unfair for some northern man to have imputed to the senator dishonorable motives in seeking that interview. It is an evil—a political and social evil—it is a wrong toward those who are the sufferers thereby—those were his opinions, but he quarrelled with no man who thought otherwise. In conclusion, he denied all ambitious projects: he stood, as it were, upon the brink of eternity, expecting soon to go hence, and owed no responsibility which he was not prepared to meet here and before God. If the senator from Mississippi chose to call him an Abolitionist—well and good; he would only say, that if there was any one man in the community more abused by the Abolitionists than another, it was he.

Mr. Cass (interrupting) said, that if Mr. Clay claimed to be the best abused man in the community, he must take exception. (Laughter.)

Mr. Clay further defended his resolutions. He had honestly, in the sight of God, endeavored to bring forward a scheme of compromise for the purpose of keeping the Union together in one family, with harmony and concord. In supporting that scheme he had not forgotten to rebuke the fanatics of the north for their course, as well as to call upon the south not to persist in what would not bear the scrutiny of reason and judgment. It was enough for him that his plan of settlement was rejected by the ultraists of both sections.

FIRST—*Resolved*, That California, with suitable boundaries, ought, upon her application, to be admitted as one of the states of the Union, without the imposition by congress of any restriction to the exclusion or introduction of slavery within those boundaries.

It must be acknowledged that there has been some irregularity in the movements in California, which have resulted in the formation of her Constitution. It was not preceded by any action of congress authorizing a convention, and designating the boundaries of the proposed state, according to all the cases of the admission of new states into this Union, which were admitted prior to that of Michigan, if I am not mistaken, which, unauthorized by congress, undertook to form for herself a Constitution, and to knock at the door of congress for admission into the Union. I was myself at the time, I recollect, when Michigan presented herself, opposed, in consequence of that deviation from the early practice of the government, to her admission. The majority determined otherwise, and it must be in candor owned, by all men, that California has much more reason to do what she has done, unsanctioned and unauthorized by a previous act of congress, than Michigan had to do what she did. Sir, notwithstanding the irregularity of the admission of Michigan into the Union, it has been a happy event. She forms now one of the brightest states of this glorious confederacy. She has sent here to mingle in our councils senators and representatives so distinguished, that we may all associate with them with pride, with pleasure, and satisfaction; and I trust that if California, irregular as her previous action may have been in the adoption of a Constitution, but more justifiable than

some gentlemen have held a different doctrine, but I persuade myself that they themselves, when they come to review the whole ground, will see sufficient reason for a change or modification of their opinion; and if they adhere to it, they will be found to compose a very small minority of the whole mass of the people of the United States. The next truth which the resolution asserts is, that slavery is not likely to be introduced into any portion of that territory. That is a matter of fact, with all the evidence upon which the fact rests, which, I suppose, is as accessible to other senators as to myself. I must say that from all I have heard or read, from all the witnesses that I have seen and conversed with, from all that has transpired and is transpiring, I do believe that not within one foot of the territory acquired from Mexico will slavery ever be planted; and I believe it could not be done by the force and power of public authority. Facts are daily transpiring to justify this conclusion. I invite senators, from the free states especially, to consider what has occurred since the last session, and even since we have left our respective constituencies, without an opportunity of our own of consulting with them upon that great and momentous fact. The fact is that California herself, although it was asserted and predicted that she never would establish slavery when she came to be a state, has in a convention, by a unanimous vote, declared against the introduction of slavery within her limits. I think, sir, taking that leading fact into consideration, with all the evidence which has reached me, I am warranted in the conclusion which constitutes the second truth that I have stated in this resolution, that slavery is not likely to be introduced into any of our newly-acquired territories, and the latter part of the resolution asserts that it is the duty of congress to 'establish appropriate territorial governments within all that territory, exclusive of California, not embracing in the acts by which these governments shall be constituted, either a prohibition or an admission of slavery.' Much as I am disposed to defer to high authority—anxious as I really am to find myself in a position which would enable me to coöperate heartily with other departments of the government in conducting the affairs of this great people—I cannot concur in the propriety of a dereliction of those territories—of an abandonment of them, leaving them, without government, to all those scenes of disorder, confusion and anarchy, which, I regret to say, with respect to some of them, there is too much reason to anticipate will arise. It is the duty—the solemn—I was going to add, almost the sacred duty of congress—to legislate for that people, if they can; and, at all events, to attempt to legislate for them, and to give them the benefit of law, order and security.

The next resolutions, sir, are the third and fourth, which, having an immediate connection with each other, should be read together:

THIRD—*Resolved*, That the western boundary of the state of Texas ought to be fixed on the Rio del Norte, commencing one marine league from its mouth, and running up that river to the southern line of New Mexico, thence with that line

astwardly, and continuing in the same direction, to the line as established between ie United States and Spain, excluding any portion of New Mexico, whether laying n the east or west of that river.

FOURTH—*Resolved*, That it be proposed to the state of Texas that the United tates will provide for the payment of all that portion of all the legitimate and *bona de* public debts of that state, contracted prior to its annexation to the United States, nd for which the duties on foreign imports were pledged by the said state to its reditors, not exceeding the sum of —— dollars, in consideration of the duties so ledged having been no longer applicable to that object after the said annexation, ut having thenceforward become payable to the United States; and upon the ondition, also, that the said state shall, by some solemn and authentic act of her egislature, or of a convention, relinquish to the United States any claim which it as to any part of New Mexico.

Mr. Clay did not intend to go into the complex question as to what vere the due limits of Texas. His opinion was that Texas has not good title to any portion of what is called New Mexico; but he vas free to admit that, looking at the ground which her senators assumed, the law of Texas of '35, the treaty with Santa Anna, and o on—looking to all these facts, but not yielding to them all the orce which gentlemen claimed for them, he must say that there vas plausibility in the claim which she sets up. He proposed then, hat whether the Neuces or the Bravo is, or is not, the boundary of Texas, that her western limit shall be on the Del Norte, from its nouth to the mouth of the Sabine. He proposed also, in connection vith this decision of the question of boundary, that congress shall pay the debts of Texas, for the liquidation of which the duties on foreign goods imported into Texas were pledged prior to annexation

fere with the sale of slaves, from one family to another in the District; the slave trade which he proposed to prohibit was that which Mr. Randolph, forty years ago, pronounced an abomination. It was a mistake on the part of the North, if they supposed that the people of the South generally looked upon the slave trader, or his occupation, with complacence. The slave dealer was frequently excluded from association with the respectable and worthy in the South. He proposed that the slave trader should go to other parts to pursue his calling—that he should not be permitted to erect his prisons here, and put on his chains, and sometimes shock the feelings by their trains of manacled beings through our streets and avenues. Neither should they bring them here. There was no necessity for it, and it ought to be prohibited.

The seventh resolution related to a matter now under discussion in the senate, and he would refrain from any general remarks upon it. It was as follows:

SEVENTH—*Resolved*, That more effectual provision ought to be made by law, according to the requirements of the Constitution, for the restitution and delivery of persons bound to service or labor, in any state, who may escape into any other state or territory of this Union.

The eighth and last resolution provided that congress has no power to prohibit the trade in slaves between the *states*. It was as follows:

EIGHTH—*Resolved*, That congress has no power to prohibit or obstruct the trade in slaves between the slaveholding states, and that the admission or exclusion of slaves brought from one into another of them, depends exclusively upon their own particular law.

It was obvious that no legislation was intended as a consequence of the resolution; it merely asserted a truth. He had thought that, in looking at this whole subject, it was fit and proper to resort to great and fundamental principles, to keep them before the mind, that they might not violate them. These resolutions involved no sacrifice of any principle; they were founded upon a basis of mutual forbearance and concession—a concession not of matters of principle, but matters of feeling merely. He thought, in view of all the circumstances, a more liberal concession might be expected from the free states than could be asked of the South; and, truly, with gentlemen from the North this question was an abstraction, while with the people of the South it was a principle involving their property, and, as a large portion of them believed, of their prosperity and peace. The North, too, was numerically more powerful, and greatness and magnanimity should always go together. Mr. Clay concluded with a most eloquent appeal in behalf of harmony, peace, mutual concessions, and forbearance, for the sake of the Union. In the course of his remarks, he exhibited a sacred relic—a piece of the coffin of Washington—presented that morning, and submitted some thrilling

bservations relative to the distinguished dead, and the spirit which e, if upon the stage of action, would urge in the settlement of the nomentous question under discussion.

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Mr. Clay said, his proposition was not to take absolutely from Texas the territory which she claimed; it made a proposition to Texas for her consideration. He had expressed, it was true, his wn opinion that the title of Texas was not good to the territory in uestion, and at the same time he would be happy to discuss that uestion.

In the course of a conversation which ensued between Mr. Clay nd Mr. Foote, the latter asserted that the faith of congress was ledged to all the Southern states, and not Maryland alone, for the reservation of slavery in the District.

*Mr. Clay.* Suppose slavery be abolished in Maryland to-morrow, ave we no power to abolish it here?

* * * * *

Mr. Mason, of Virginia, and Mr. Davis, of Mississippi, expressed heir determination never to sanction such a compromise as that mbraced in the resolutions which had been offered. They also ndulged in some reflections upon the course of Mr. Clay, as a sentor from a slave state.

Mr. Clay replied briefly, premising by saying, in answer to the eflections cast by the senators from Virginia and Mississippi (Mr. Mason and Mr. Davis.) I tell these gentlemen that I know my duties

# ON THE CONSTITUTION OF CALIFORNIA,

AND IN REPLY TO SOME

## REMARKS ON HIS INTERCOURSE WITH OTHER SENATORS.

IN THE SENATE OF THE UNITED STATES, FEB. 15, 1850.

[DURING the progress of the debate on the resolutions submitted by Mr. Clay, President Taylor transmitted to congress a message, apprising that body that he had received the constitution adopted by the people of California, accompanied with an application for admission as a state into the Union. The reference of this message was warmly discussed; and while it was under consideration, Mr. Clemens, of Alabama, indulged in several unwarrantable 'flings' at Mr. Clay, among other things expressing his surprise at the 'fellow-feeling' which existed between him and Mr. Benton. This drew forth the following rejoinder, in which other matters are collaterally noticed. (It may be proper to state here that the resolutions of Mr. Clay, together with several other propositions from different sources, were finally referred to a committee of thirteen, which was chosen by ballot, and of which Mr. C. was elected chairman.)]

Mr. Clay rose to reply to one of the remarks of the senator from Alabama, Mr. Clemens. What right had the senator to animadvert upon a conference held between the senator from Missouri (Mr. Benton) and him? It was very true that for several years there did exist other than the most cordial feeling between him and Mr. Benton—that a system of non-intercourse was established between them, if gentlemen pleased so to call it. Some three years ago they had come together, having made peace with each other, as Mr. Clay wished he might be able to do with all the world; but with respect to intimations of any mutual deliberation and consideration of measures proposed to be introduced, he had to say, that there was nothing of the kind; he had never seen or heard any thing in relation to the bill proposed and introduced by Mr. Benton, proposing to reduce the boundaries of Texas, until it was brought into the senate. On the other hand, Mr. Benton had never seen, heard or thought, so far as he knew, of the series of resolutions recently introduced by him. What, then, had the senator who had denounced their intercourse to go upon? Was he to speculate upon the object of that private conference, and to make such deductions as seemed to him to be

roper? He had no right so to do, and the conclusion showed how
ıcorrect his deductions were. He would repeat that there was no
ıterchange of opinion between him and Mr. Benton at all, in rela-
on to their respective projects. It was true, that at the time alluded
, they did converse together upon the proper dispositions of subjects
oming before the senate, but what right had others to attempt to
lace a construction upon their motives? He must protest against
ıbmitting his private intercourse to any such test as that. He was,
nd had been so deeply impressed with a sense of the awful dangers
hich menace the existence of the government, that if the senator
ad been his most bitter enemy, and had come to him to consider the
ıeans best calculated to rescue the common country from impend-
ıg danger, he would have counselled with him, as with his friend—
by so doing he might hope to accomplish so desirable an end. Mr.
lay desired to notice one or two other points to which the senator
ad alluded. He (Mr. Clay) had said, that in the admission of Cali-
ornia there was no concession from either side:—true, the North
ould get what she wanted; but it would be from causes not under
ıe control of congress, and not by concession. It had been said
ıat, if received with her inhibition of slavery, congress would be
esponsible for it. He proceeded to show that this was not true,
ut that if congress passed laws allowing the people of California to
ame a constitution and erect a state, congress would then more
easonably be held responsible for any act decided upon by the people,
rith reference to the institution of slavery. He had admitted that

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Mr. Foote made some remarks in vindication of his observations in relation to the recent intercourse between Mr. Benton and Mr. Clay; in the course of which he suggested to Mr. Clay that there was sometimes something in his demeanor, when excited in debate, which had the appearance of menace. He also alluded to a speech made by that senator eleven years ago, in which he said that certain acts, if persisted in, would dissolve the Union, and dissolve it in blood. Mr. F. went on at length with some personal remarks upon Mr. Clay, Mr. Seward and Mr. Benton.

Mr. Clay said a few words in reply to Mr. Foote's remarks about the intercourse between him and Mr. Benton, and in the course of a few observations, suggested to him the impropriety of attempting to draw deductions from such private intercourse. He reminded Mr. Foote that he himself that morning had come over to him, and held a long conversation with him, in relation to the difficulties which concerned the affairs of the country,—and asked him whether it would not have been unfair for some northern man to have imputed to the senator dishonorable motives in seeking that interview. It is an evil—a political and social evil—it is a wrong toward those who are the sufferers thereby—those were his opinions, but he quarrelled with no man who thought otherwise. In conclusion, he denied all ambitious projects: he stood, as it were, upon the brink of eternity, expecting soon to go hence, and owed no responsibility which he was not prepared to meet here and before God. If the senator from Mississippi chose to call him an Abolitionist—well and good; he would only say, that if there was any one man in the community more abused by the Abolitionists than another, it was he.

Mr. Cass (interrupting) said, that if Mr. Clay claimed to be the best abused man in the community, he must take exception. (Laughter.)

Mr. Clay further defended his resolutions. He had honestly, in the sight of God, endeavored to bring forward a scheme of compromise for the purpose of keeping the Union together in one family, with harmony and concord. In supporting that scheme he had not forgotten to rebuke the fanatics of the north for their course, as well as to call upon the south not to persist in what would not bear the scrutiny of reason and judgment. It was enough for him that his plan of settlement was rejected by the ultraists of both sections.

[On the 8th of May, Mr. Clay, as chairn
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several weeks, Mr. Clay and his friends fi
support. The following embraces his re
raised by opposing senators.]

Mr. Clay rose and said: I h
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have not been discouraged in the

passage, to vote against it. I am not authorized to say, and do not mean to say, that there will be an affirmative vote of every member of the senate in favor of the measure upon the final passage of the bill; but I need not say that I indulge the hope, whether all modifications which were desired by various members of the committee may or may not be made, that finally there will be not only a unanimous concurrence of the committee generally in the measure recommended, but I trust it will leave this branch of congress with a large majority in its favor. I repeat that I am not discouraged by any thing that has transpired in the committee, or in the senate, or in the country, upon the subject of this measure. I have believed from the first, and I yet firmly believe, that if these unhappy subjects which have divided the country shall be accommodated by an amicable adjustment, it must be done upon some such basis as that which the committee has reported. And can there be a doubt on this subject? The crisis of the crisis, I repeat, has arrived, and the fate of the measures which have been reported by the committee, in my humble judgment, determines the fate of the harmony or distraction of this country. Entertaining that belief, I cannot but indulge the hope, that no honorable senators, who, upon the first hearing of the report, might have seen some matters in it objectionable, according to their wishes or judgment, will see fit to oppose its final passage; but that the entire senate, after a full consideration of the plan proposed, and after a fair contrast between this and all other proposed plans—at least all other practicable plans of adjustment of the question—whatever expectations or hopes may have been announced elsewhere, out of this body, will concur in this measure brought forward by the Committee of Thirteen, and that ultimately the measure will obtain the general concurrence of both houses of congress.

But I have risen, as I announced, more particularly for the purpose of entering into some further explanation of the course of the committee, and of throwing out some few observations in support of the measures which they have recommended for the adoption of the senate.

The first measure upon which they reported was that of the true exposition of the compact between the United States and Texas, upon the occasion of the admission of that state into the Union. Upon that subject, as already announced in the report, I am happy to say, there was an undivided opinion. Two honorable senators—one of whom is now absent, and the other present—while they declared that they would not hold themselves, and did not intend to be regarded as holding themselves, in every possible state of things, and in every contingency, to vote for the admission of states that might hereafter be carved out of Texas; but that they reserved to themselves, as I understood them, the right to determine this question whenever any new states formed out of Texas should present themselves for admission.—Whether, under all the circumstances of the country, and the circumstances under which a new

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procured, and which was of a nature calculated to satisfy the judgment of the convention, was the apportionment of the representation made by the framers of the constitution.

So of a more recent acquisition or annexation—that of Texas. Nobody believed, I think, at the time, that Texas had a population sufficient to entitle her to two representatives. As in the case of some of the old thirteen states, so in the case of Texas, it was known that she was rapidly filling up—as I have no doubt will turn out to be the fact when the next census comes to be taken in Texas—that before the enumeration of the next census was taken, she would have a population entitling her to two, and probably more representatives.

Now, sir, there is an error existing, as it seemed to me from the observation of one or two friends the other day, with regard to the requisite population to entitle California to two representatives. It is not, as it is supposed, double the ratio which was fixed by congress ten years ago. The ratio was fixed at 70,680; but it was expressly provided in the law establishing it, that any state which had an excess beyond a moiety of the ratio established, should be entitled to an additional representative. According to the provision of that law, to entitle California to two representatives, she would only be required to have a population of 106,021, and not as was supposed, 140 odd thousand. Now, the question is, leaving out of view altogether the rapid augmentation which is daily taking place in the population of California, whether she has a population at this time—at the time when two members come to be admitted—which would entitle her to two representatives. Upon this subject, I have that which appears satisfactory to my mind, and I trust, to the minds of other senators.

In the first place, I offer to the senate an extract from a memorial of the senators and representatives of the state of California to the congress of the United States. To read this memorial, or to state it in substance in detail, would take up a considerable time; and as that memorial has been before senators, and can at any time be referred to and perused by any who have not already examined it, I will merely state, that according to the statements of that memorial—a portion of which are conjectural and a part official—the population of California, from the 1st of January, 1850, was 107,069, exceeding the number requisite to entitle the state to two representatives. But that brings it down only to January, 1850. Since that time we are authorized to add to the number, by that of the arrivals by sea at the port of San Francisco, as shown by the official report of the harbor-master from the 1st of January, 1850, to the 27th of March, 1850. Without going into the classification, there are of Americans, 8,697; of Californians, 13,454; and of foreigners, 5,503—making a total of 16,957. The number of deserters from ships, as stated in the memorial before alluded to, is put at 3,000, in round numbers. The official statement of the harbor-master, made on the first of March last to the legislature, states the number of officers and seamen that left their vessels from various causes to be 14,240.

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their purpose of returning to the United States, I have no doubt, and become permanent and fixed residents of California. On the question of population, therefore, I think there is no ground of rational objection to the number "two," which has been proposed by the committee, and which is precisely the number in the case of Texas.

Now, sir, with regard to the limits of California.—Upon that subject, a proposition was offered in the committee to extend a line through California, first by 36 deg. 30 min. A member of the committee, however, was not satisfied with that, and proposed 35 deg. 30 min. I believe that a majority of the committee was in favor of that amendment; but when the question of any line came up, it was rejected by a majority of the committee. Is it not a little remarkable that this proposition—this attempt to cut California in two by the line 36 deg. 30 min., or 35 deg. 30 min., or by any other line—does not come from the North at all, from whence it might be supposed it would come? For, with respect to the North, there can be no earthly doubt but if there were half a dozen states made out of California they would all be free states. But the North does not ask for a division. It is from the South that the proposition to divide the existing limits of California comes. The South wants some other states, or another state there. Some gentlemen from the South, it is true, propose that there should be an express recognition of the right to carry slaves south of the proposed line. But I believe that the major part of those who ask for this line, do not even ask for this recognition, or for this enactment, to carry slaves south of this line; and I ask every body who is acquainted with the country, who has taken the pains to look over the map, if he has not come to the conclusion that a friend of mine (I believe now within my hearing) from the South, and a large planter, came to? He said to me the other day: 'Mr. Clay, if congress was to offer me $500 for every slave I might own, requiring me to take them to one of these new territories and keep them there for ten years, I would not accept the proposition.'

Now, suppose you were to take the line 35 deg. 30 min. or whatever line was proposed, what would be the consequence? There would be an open sea on the one side for the escape of slaves—California, reduced as I have suggested, on another; and Mexico, with her boundless mountains, on another. Who would think—who believes—that, if you establish the line proposed, slavery would ever be carried there, or would be maintained there? Moreover, I think I have understood that the delegation in the convention, south of the line of 35 deg. 30 min., or north of it, voted unanimously against the introduction of slavery there. It cannot, therefore, and I suppose it is not designed with any hope that there would be slavery carried there upon the limits of the Pacific at all. The making of a new state or states out of the present limits of California is therefore but adding to the objection which has been made by the South to the preponderance and influence, and the apprehensions entertained of

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With the committee I say upon this occasion, that all the considerations which devolve upon congress to admit California, sanction what she has done, and give her the benefit of self-government, apply with equal force to the two territories of Utah and New Mexico.

Mr. President, allow me, at this stage of the few observations which I propose to address to the senate, to contrast the plans which have been presented for the settlement of this question. One has come to us from very high authority, recommending, as I understand it, the admission of California, and doing nothing more, leaving the question unsettled of the boundary between New Mexico and Texas, and leaving the people who inhabit Utah and New Mexico unprovided for by government. I will take the occasion to say, that I came to Washington with a most anxious desire—a desire which I still entertain—to coöperate in my legislative position, in all cases in which I can judiciously coöperate, with the executive branch of the government. I need not add, however, sir, that I came here, also, with a settled purpose to follow the deliberate dictation of my own judgment, wherever that judgment might carry me. It is with great pleasure, sir, that I state that we do coöperate with the President, to the extent which he recommends. He recommends the admission of California. The committee propose it. There the President's recommendation stops. There we take up the subject, and proceed to act upon the other parts of the territory acquired from Mexico. Now, sir, which course of the two recommends itself best to the judgment of those who are to act in the case?

In the first place, sir, if we do not provide governments for the other portions of the country acquired from Mexico, we fail to fulfil the obligation, the sacred obligation, in the treaty with Mexico. It is said that they will have a government of their own—a local government; that they have such a one now; but they have not such a one now as they had when they were part of Mexico. When they were part of the republic of Mexico, with the common government of Mexico stretching over all the parts constituting that republic, they had all the benefit resulting from their own local laws, and the additional benefit and security resulting from the laws of the supreme government, covering all parts of the republic. We have the place of that supreme government. They were transferred from that sovereignty to this sovereignty, and we stipulated with that former sovereignty that we would extend to them protection to their persons, security to their property, and the benefit of preserving their own religion according to the dictates of their own consciences. Now, sir, if you admit California, and do nothing for Utah and New Mexico—nothing in relation to the settlemennt of the boundary question with Texas—I ask you, in what condition, in what state, will you leave these countries? There are the Mormons—a community of which I do not wish to say a word in disrespect. I know very little about them. I have heard very often things said against them; and I believe during this session my colleague, who sits before me,

to afford information to the senate

But I care not whether they are by their enemies, or as good as they or what they are: they are a port bound by treaty, as well as other h put it to you, sir, is it right to say hending the Mormons, and to the as they are of the benefit of the g the supreme authority of which re to leave them to themselves, and to selves, I dare say; and when they ripe for a state government?—whe many years, let them come forward that discharging our duty?

I will go further in reference to that I think it my duty to contrast which is now under consideration doubt that there were strong, at lea tion of that recommendation in the time it was sent into congress, at have no doubt it was apprehended sible to create any governments fo ducing scenes in congress of the m acter. I have no doubt it was beli the message, that distraction woul opinion, perhaps, carried to extreme be made to extend government ove

But I am happy to be able to rec since the commencement of the ses in the public mind has taken place. has come to the rescue of this Unio disposition to abate in her demands. —not less glorious than the other

the other, and coming together once more as friends and brethren, living under the common country, and enjoying the benefits and happiness which have flowed from a common government. I think that if the President had to make a recommendation to congress, with all the lights which have been shed upon the subject since the commencement of the session, now that nearly five months of the session have gone, he would not have limited himself simply to a recommendation to admit California, or to leave the territories to shift for themselves as they could or might.

He tells us in one of those messages—I forget whether it is the message of December or January—that he had reason to believe that one of those territories at least (New Mexico) would possibly form a state government for herself, and might come here, even during the progress of this debate. At all events, if there had been such a state of circumstances at the period that this message was sent in as exists down to the present time, I cannot but believe that the gentleman who now presides at the head of our political affairs, if he had had the benefit of our light, would have made a recommendation much more comprehensive, much more general and healing in its character, than the simple recommendation of the admission of California, leaving all the other questions untouched and unsettled.

With regard to the abandoned condition of Utah and New Mexico, to which I have alluded, left without any authority of this government, acting locally to protect the citizen who goes there to settle, and to protect the citizen who is *in transitu* between these countries, without any authority connected with the supreme authority of the government here—when they are communicating from time to time this state of things existing in those countries, I submit that to abandon them, in face of our obligation contained in the treaty of Guadalupe Hidalgo, and other high obligations, is not conformable to that duty which we are called upon to perform.

Well, then, there is the boundary question with Texas. Why, sir, at this very moment we learn through the public papers that Texas has sent her civil commissioners to Santa Fe, or into New Mexico, for the purpose of bringing them under her authority; and if you leave the Texas boundary question unsettled, and establish no government for Utah and New Mexico, I venture to say that, before we meet again next December, we shall hear of some civil commotion, perhaps the shedding of blood, in the contest between New Mexico and Texas with respect to the boundary; for, without meaning to express at this time, or at any time, any positive opinion on that question, we know that the people of Santa Fe are as much opposed to the government of Texas, and as much convinced that they do not belong to Texas, that they constitute no portion of the territory of Texas, as we know Texas to be earnest in asserting the contrary, and affirming her right to all the country from the mouth of the Rio Grande to its uppermost sources. Is it right, then, to leave these territories unprovided for? Is it right to leave this important ques-

on of boundary between New Mexico and Texas unsettled, to pro-
ce possibly the fearful consequences to which I have adverted?

Sir, on these questions, I believe—though I do not recollect the
act state of the vote in committee—that there was no serious
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would go out to the country, and might lead to improper specula-
n in the stock markets; and that therefore it was better to leave

misunderstands what is meant by Hatsel in the use of the word 'tacking.' We have no such thing as tacking in the English sense of the term. Jefferson has no chapter in his Manual on this subject of tacking. Hatsel first. Tacking in England is this: By the constitution of England—or, in other words, by the practice of England, which makes her constitution—money bills, supply bills, bills of subsidy and aid of all kinds, are passed by the house of commons, sent to the house of lords, and the lords are obliged to take them word for word, without making any amendment whatever. They are sent in that shape to the crown, and the crown is obliged to take them without amendment at all. The practice of tacking in England is this: knowing that a money bill is obliged to be passed without any alteration or amendment in the lords, the commons in England frequently, when they have a public object or measure to carry out, tack that measure to a money bill, and send it to the house of lords. They know that the over-ruling necessity of the aristocracy and of the crown is such that they must, for the sake of the money granted to them, agree to that clause favorable perhaps to liberty, or to something else that is tacked on to it. The process of tacking in England is therefore objected to by the crown and by the aristocracy always. It is never objected to by the commons.—And according as the prevalence of the authority of the crown and the aristocracy, or of the public branch of the legislature takes place, the practice of tacking is resorted to. Hence the quotation read by the senator the other day from Chancellor Finch. The king always, and the lords always complain of it. Hatsel, in the very loose and very unsatisfactory work of his which I have often had occasion to refer to, complains of it; but the fact is, the process of tacking in England is favorable to liberty; it is favorable to the commons of England. It is never objected to by them, but it is always objected to by the crown and the aristocracy. Her Majesty would be glad to get the money without being obliged to make any concessions to her subjects; and the house of lords would be equally disposed with her Majesty to think it very wrong to be compelled to swallow the whole. They would be willing to take the money, but they would have to take along with it the clause which has been tacked on in favor of personal liberty or of some rights of the subjects.

Sir, I had intended to go into the details of this subject, by way of answer to the honorable senator; but, really, I think it is hardly necessary. You find in the third volume of Hatsel that he has a chapter on the subject of bills tacked to bills of supply. I repeat, sir, that we have no such thing as that tacking process in this country. And why? Because, although tax bills and other bills originate in the house of representatives, and by the Constitution are required to originate there, the senate have a right to amend, to strike out any clause, to reduce the tax, or to make any additions or amendment which they please. The senate is under no such restraint as is the house of lords in England. Hence we have no such thing

as tacking, in the English parliamentary sense of the term. But tacking, even in England, is confined to what are considered incongruous measures. Now, sir, the question is, whether there is any incongruity in these measures: a bill for the admission of California: a bill establishing a territorial government in Utah; a bill establishing a territorial government for New Mexico; and what is indispensable, if we give her a government, a bill providing what shall be her boundary, provided Texas shall accede to the liberal proposal made to her? Is there any thing, I ask, incongruous in all this? Where is it? What is the incongruity? What is the indignity? for I have heard time after time that it is undignified, or that it is ill-treating California, to attach her to those portions of territory acquired from Mexico, included in Utah and New Mexico. What is the indignity? I admit that in general, for the sake of simplicity of business, it is better not to make any one bill complex, or even to embrace too great a variety of subjects of a congruous nature. But that rests in the sound discretion of congress. It rests in the pleasure of congress. Sir, it has been said that California has set us a very good example, by providing by her constitution that no two subjects are to be united in the same bill. Louisiana has done the same thing in her constitution. Ask the senator from Louisiana, or ask an honorable member of that legislature, who has just arrived here from Baton Rouge, and they will tell you to what vast inconvenience legislative action is exposed, in consequence of this constitutional restriction. What are incongruous subjects, what are distinct subjects, is a matter not always absolutely certain. If any thing which is thought incongruous is incorporated in a bill in that legislature, it is sent to the judiciary, and if the judiciary thinks the subjects are incongruous, the law cannot be constitutional, because, in the opinion of the judges, it was in violation of the constitution, which declared that the legislature should pass only congruous bills. I have been told, and the senator from Louisiana can state whether I have been correctly informed or not, that in two or three instances laws which have been passed by the legislature of Louisiana have been declared unconstitutional, in consequence of this constitutional restriction upon legislative action, and the courts would not enforce them.

I have stated what I think I ought to satisfy every body without dwelling upon it further. Now, sir, I will show you what has been done by congress from time to time in the annexation of different subjects in the same bill. Here, sir, is volume second, page 396, chapter five, of *The United States Statutes at Large*, in which I find 'An act to regulate and fix compensation for clerks, and *to authorize the laying out of public roads*, and for other purposes.'—The very title shows the incongruity of the subjects treated of. You will find in volume four, page 125, chapter 83, 'An act to extend the time for the settlement of private land claims in the territory of Florida, to provide for the preservation of the public archives in said

territory, and for the relief of John Johnson.' [Laughter.] Here the name of the individual came last, but I have a case before me in which the individual came first. It is to be found in the *Statutes at Large, private acts*, volume six, page 813, chapter 89, entitled 'An act for the relief of Chastelain and Pouvert, and for other purposes.' And what do you suppose those other purposes to have been? About fifty appropriations for a variety of subjects which can be supposed to arise under such a government as ours. Will my friend read the extract for me?

Mr. Underwood accordingly read the extract as follows:

'*An act for the relief of Chastelain and Pouvert, and for other purposes.*

'*Be it enacted, &c.* That the collector of the port of New York is hereby authorized to deduct from the amount of a bond given by Chastelain and Pouvert, for duties on merchandise imported in the schooner Gen. Jackson, Hawes, master, from Neuvitas, in the island of Cuba, such duties as may have been charged on that portion of said merchandise which was not landed in the United States, having been destroyed by fire in the harbor of New York, upon their producing proof to the collector of New York of the destruction of said merchandise.

*And be it further enacted*, That the following sums to pay the balance of accounts for which no appropriations now exist, and which have been passed upon and allowed by the proper accounting officer of the government, are now before them for audit, and for the payment of which appropriations are recommended by the heads of the proper departments, be and the same are appropriated, viz: For an award made by the proper accounting officer of the treasury in favor of the owners of the steamboats Stasca and Dayton, for services rendered under an agreement with Major Charles Thomas, quarter-master for the transportation of supplies, laborers, and other things for the use of the works at Fort Smith, Arkansas, in the year 1838, $13,350. For the payment of a balance due for supplies furnished to the Creek Indians, and medical services rendered to those Indians, after the commencement of the disturbances in the Creek country, and before and during the removal of the said Indians west of the Mississippi, which accounts were incurred under the direction of the proper officers or agents of the government, $7,741 44. For the payment of the expenses of a division of the lands of the Brothertown Indians among the members of the tribe, in obedience to the act of congress of the 3d of March, 1839, entitled, 'An act for the relief of the Brothertown Indians in the territory of Wisconsin,' the duties having been performed and the accounts presented, $1,830.'

Mr. Clay.—There are a great many others.

Mr. Benton.—What is the date of that act?

Mr. Clay.—It was approved July 1st, 1840; but I have one of a later date, if the honorable senator will prefer it. Here is one in 1849, entitled 'an act for the relief of James Norris, and for other purposes:'

'*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the secretary of the navy be, and is hereby, directed to place the name of James Norris, of Sandwich, in the state of New Hampshire, on the roll of invalid pensioners, and pay him a pension at such a rate per day as is provided by law for the total disability of an assistant surgeon in the

navy of the United States, to commence on the first day of July, A. D. 1848, and continue during his natural life.

'Sec. 2. *And be it further enacted*, That there be, and hereby are appropriated, out of any money in the treasury not otherwise appropriated, the following sums, for the government of the territory of Minnesota: For salaries of governor, three judges, and secretary, nine thousand dollars. For contingent expenses of said territory, three hundred and fifty dollars. For compensation and mileage of members of the legislative assembly, pay of the officers and attendants, printing, stationery, fuel, and other incidental expenses, thirteen thousand seven hundred dollars.—Approved, March 3, 1849.'

I never knew that our young sister Minnesota thought her dignity at all affected or offended by this association with James Norris. There was a civil and diplomatic bill under consideration the last session. The senator's recollection will assist me if it were not last session. To that bill the senator from Missouri (Mr. Benton) moved to add an amendment, to pay certain expenses incurred in the conquest of California. At the second session of the thirtieth congress, the bill 'making appropriations for the civil and diplomatic expenses of the government for the year ending June 30th, 1850, and for other purposes,' being under consideration of the senate, Mr. Walker proposed an amendment, the object of which was to provide governments for the territory recently acquired from Mexico, including California, which was adopted; yeas 29, nays 27. At the same session, the same bill being under consideration, Mr. Walker, for the first time, proposed the amendment quoted above as agreed to; and Mr. Bell proposed an amendment to the amendment of Mr. Walker, which was disagreed to: yeas 4, nays 39.—*Senate Journal, second session, Thirtieth Cong.* pp. 241–'43.

I shall next notice an act making appropriations for the civil and diplomatic expenses of the government for the year 1842. It will be found in the fifth volume of the *Statutes at Large*, page 476, chapter 29. To that act is annexed a proviso limiting the compensation which should be received for printing the laws and documents of congress. The next subject I shall notice is an act to provide for the support of the military academy of the United States for the year 1838, and for other purposes. It will be found in volume fifth of the *Statutes at Large*, page 262, chapter 169.—These are only some out of a multitude of the same kind that might have been produced from the passage of such laws, from time to time, founded upon the discretion and good sense of congress, embracing subjects of every variety of incongruity. And yet, upon a bill which proposes to unite three subjects perfectly compatible in their nature, without the slightest incongruity existing between them—subjects which, at the last session, were proposed to be united together by the honorable senator from Wisconsin, in his proposal for the adjustment of these unpleasant questions, it is all at once discovered that the powers of government are paralyzed; that it is 'tacking'—a word which has not yet been imported from England in her parliamentary law—it is all at once discovered that it is 'tacking'—a

most dangerous and undignified course, which ought not to be sanctioned.

I mentioned, sir, a while ago, acts which embraced every possible variety of legislation. I referred to an act providing for the support of the military academy of the United States for the year 1838, and for other purposes. That act makes thirty or forty appropriations for different objects! It makes appropriations for the documentary history of the revolution, for continuing the construction of the patent office, for furnishing machinery and other expenses incident to the outfit of the branch mint at New Orleans, Charlotte, and Dahlonega; for the salaries of the governor, chief judge, associate justices, district attorney, marshal, and pay and mileage of the members of the legislative assembly of the territory of Iowa, the expense there of taking the census, and for other incidental and contingent expenses of that territory, and in relation to the investment in state stock of the bequest of the late James Smithson, of London, for the purpose of founding at Washington, in this district, an institution we denominate the Smithsonian Institution. These and various other acts are all comprehended in a bill making an appropriation for the military academy at West Point.

Now, sir, after this, can it be said that there is any want of power, or any non-conformity in the practice of congress, in endeavoring to unite together, not three incongruous and discordant measures, but three measures of the same character, having, in different form, the same general object?

I will pass on, with a single observation on an amendment introduced by the committee into the territorial bill. To that amendment I was opposed, but it was carried in the committee. It is an amendment which is to be found in the tenth section of one of the bills limiting the power of the territorial legislature upon the subject of laws which it may pass. Amongst other limitations, it declares 'that the territorial legislature shall have no power to pass any law in respect to African slavery.' I did not then, and do not now, attach much importance to the amendment, which was proposed by an honorable senator, now in my eye, and carried by a majority of the committee. The effect of that clause will at once be understood by the senate. It speaks of 'African' slavery. The word African was introduced so as to leave the government at liberty to legislate as it might think proper on any other condition of slavery —'Peon' or 'Indian' slavery, which has so long existed under the Spanish regime. The object was to impose a restriction upon them as to the passage of any law either to admit or exclude African slavery, or of any law restricting it. The effect of that amendment will at once be seen. If the territorial legislature can pass no law with respect to African slavery, the state of the law as it exists now in the territories of Utah and New Mexico will continue to exist until the people form a constitution for themselves, when they can settle the question of slavery as they please. They will not be allowed to

admit or exclude it. They will be restrained on the one hand from its admission, and on the other from its exclusion. Sir, I shall not repeat now the expression of opinion which I have already announced to the senate as being held by me on this subject. My opinion is, that the law of Mexico, in all the variety of forms in which legislation can take place—that is to say, by the edict of a dictator, by the constitution of the people of Mexico, by the act of the legislative authority of Mexico—by all these modes of legislation, slavery has been abolished there. I am aware that some other senators entertain a different opinion; but without going into discussion of that question, which I think altogether unnecessary, I feel authorized to say that the opinion of a vast majority of the people of the United States, of a vast majority of the jurists of the United States, is in coincidence with that which I entertain; that is to say, that at this moment, by law and in fact, there is no slavery there, unless it is possible that some gentlemen from the slave states, in passing through that country, may have taken along their body slaves. In point of fact and in point of law, I entertain the opinions which I expressed at an early period of the session. Sir, we have heard since, from authority entitled to the highest respect, from no less authority than that of the delegate from New Mexico, that labor can be there obtained at the rate of three or four dollars per month; and, if it can be got at that rate, can anybody suppose that any owner of slaves would ever carry them to that country, where he could only get three or four dollars per month for them?

I believe, on this part of the subject, I have said every thing that is necessary for me to say; but their remains two or three subjects upon which I wish to say a few words before I close what I have to offer for the consideration of the senate.

The next subject upon which the committee acted was that of fugitive slaves. The committee have proposed two amendments to be offered to the bill introduced by the senator from Virginia, (Mr. Mason,) whenever the bill is taken up. The first of these amendments provides that the owner of a fugitive slave, when leaving his own state, and whenever it is practicable—for sometimes, in the hot pursuit of an immediate runaway, it may not be in the power of the master to wait to get such record, and he will always do it if it is possible—shall carry with him a record from the state from which the fugitive has fled; which record shall contain an adjudication of two facts: first, the fact of slavery, and secondly, the fact of elopement; and in the third place, such a general description of the slave as the court shall be enabled to give upon such testimony as shall be brought before it. It also provides that this record, taken from the county court, or from the court of record in the slaveholding state, shall be taken to the free state, and shall be there held to be competent and sufficient evidence of the facts which it avows. Now, sir, I heard objection made to this that it would be an inconvenience and an expense to the slaveholder. I think the expense will be very trifling

to the great advantages which will result. The expenses will be only two or three dollars for the seal of the court, and the certificate and attestation of the clerk, &c. Sir, we know the just reverence and respect in which records are ever held. The slaveholder himself will feel, when he goes from Virginia to Ohio with this record, that he has got a security which he never possessed before for the recovery of his property. And when the attestation of the clerk, under the seal of the court, is exhibited to the citizen of Ohio, that citizen will be disposed to respect, and bound to respect, under the laws of the United States, a record thus exhibited, coming from a sister state. The inconvenience will be very slight, very inconsiderable, compared with the great security of the slaveholder.

Mr. Butler.—As the bill to which the senator refers has been somewhat under my care, I am sure the honorable senator will allow me to ask a question in relation to this amendment. Is it proposed that the certificate shall be from the judge, or shall be from the court, as it is termed; because I see it seems to be inferred that it must be given by a court, and a court of record, which has a technical meaning? I desire the honorable senator to inform me whether it is thus to be given by a court or by a judge at chambers?

Mr. Clay.—Mr. President, I confess I had in view the county courts of probate which prevail throughout the United States, and not the judge. But it can be so modified, if it be deemed essential to the progress of the bill.

The committee partake of the same spirit which I have endeavored to manifest throughout this whole distracted question. They are not wedded to any particular plan; and if any amendments are offered that will improve and better the bills reported, they will be accepted. I am sure that I answer for every member of the committee, with pleasure, that any amendments to aid the object we have in view will be accepted. I repeat, sir, I confess I had in view that this record should be taken from the county courts, which prevail in almost all the states, except Louisiana and South Carolina, which have their parish courts. Any one of these courts, after hearing evidence about the ownership of property and the escape of the property, could give the required record, and this would be carried to that part of the country where the parties go.

With respect to the other amendment offered by the committee to the fugitive bill, I regretted extremely to hear the senator from Arkansas object so earnestly and so seriously to it. I did not pretend to question his right, or the right of any other senator, but he will surely allow me to say, in all kindness, that of all the states in this Union, without exception, I will not except even Virginia herself, I believe that the state which suffers more than any other by the escaping of slaves from their owners, seeking refuge either in Canada, or in some of the non-slaveholding states, Kentucky is the one. I doubt very much whether the state of Arkansas ever lost a slave. They may, very possibly, once in a while, run off to the Indians,

but very rarely. So of other interior states. So of Georgia and South Carolina. Sometimes, perhaps, a slave escapes from their seaports, but very rarely by land. Kentucky is the most suffering state, but I venture to anticipate for my own state that she will be satisfied with the provisions to which I am now about to call the attention of the senate.

Mr. President, in all subjects of this kind we must deal fairly and honestly by all. We must recollect that there are feelings, and interests, and sympathies on both sides of the question; and no man who has ever brought his mind seriously to the consideration of a suitable measure for the rēcapture of runaway slaves, can fail to admit that the question is surrounded with great difficulties. On the one hand, if the owner of the slave could go into this non-slaveholding state, and seize the negro, put his hands upon him, and the whole world would recognise the truth of his ownership of property, and the fact of the escape of that property, there would be no difficulty then in those states where prejudice against slavery exists in the highest degree. But he goes to a state which does not recognise slavery. Recollect how different the state of fact is now from what it was in 1793, nearly sixty years ago. There were, then, comparatively few free persons of color—few, compared to the numbers which exist at present. By the progress of emancipation in the slaveholding states, and the multiplication of them by natural causes, vast numbers of them have rushed to the free states.—There are in the cities of Philadelphia, New York, and Boston—I have not looked into the precise number—some eight or ten to one in proportion to the number there were in 1793 when the act passed.

In proportion to the number of free blacks, multiplied in the free states, does the difficulty increase of recovering a fugitive from a slaveholding state. Recollect, Mr. President, that the rule of law is reversed in the two classes of states. In the slaveholding states the rule is, that color implies slavery, and the *onus probandi* of freedom is thrown on the persons claiming it, as every person in the slaveholding states is regarded *prima facie* as a slave. On the contrary, when you go to the non-slaveholding states, color implies freedom and not slavery. Every man who is seen in the free states, though he be a man of color, is regarded as free. And when a stranger from Virginia or Kentucky goes to remote parts of Pennsylvania, and sees a black person, who perhaps has been living there for years, and claims him to be his slave, the feelings and sympathy of the neighborhood are naturally and necessarily excited in favor of the colored person. We all respect these feelings, where they are honestly entertained. Well, sir, what are you to do in a case of that kind? You will give every satisfaction that can be given that the person whom you propose to arrest is your property, and is a fugitive from your service or labor. That is the extent of one amendment which we propose to offer, but there is also another. The amendment upon which I have been commenting provides for the produc-

tion of a record. Now, what is the inconvenience of that? It provides that when the owner of the slave shall arrest his property in a non-slaveholding state, and shall take him before the proper functionary to obtain a certificate to authorize the return of that property to the state from which he fled, and if he declares to that functionary at the time that he is a free man and not a slave, what does the provision require the officer to do? Why, to take a bond from the agent or owner that he will carry the black person back to the county of the state from which he fled; and that at the first court which may sit after his return, he shall be carried there, if he again assert the right to his freedom; the court shall afford and the owner shall afford to him all the facilities which are requisite to enable him to establish his right to freedom. Now, no surety is even required of the master. The committee thought, and in that I believe they all concurred, that it would be wrong to demand of a stranger, hundreds of miles from his home, surety to take back the slave to the state from which he fled. The trial by jury is what is demanded by the non-slaveholding states. Well, we put the party claimed to be a fugitive back to the state from which he fled, and give him trial by jury in that state.

Well, sir, ought we not to make this concession? It is but very little inconvenience. I will tell you, sir, what will be the practical operation of this. It will be this: When a slave has escaped from the master, and taken a refuge in a free state, and that master comes to recapture him and take him back to the state from which he fled, the slave will cry out, 'I do not know the man; I never saw him in my life; I am a free man.' He will say any thing and do any thing to preserve to himself that freedom of which is for a moment in possession. He will assert most confidently before the judge that he is a free man. But take him back to the state from which he fled, to his comrades, and he will state the truth, and will relinquish all claim to freedom. The practical operation, therefore, of the amendment which we have proposed, will be attended with not the least earthly inconvenience to the party claiming the fugitive. The case is bond without surety. The bond is transmitted by the officer taking it to the district attorney of the state from which he has fled. That officer sees that the bond is executed, and that the slave is taken before the court. Perhaps, before the slave reaches home, he will acknowledge that he is a slave; there is an end of the bond and an end of the trouble about the master. Is this unreasonable? Is it not a proper and rational concession to the prejudices, if you please, which exist in the non-slaveholding states? Sir, our rights are to be asserted; our rights are to be maintained. They will be asserted and maintained in a manner not to wound unnecessarily the sensibilities of others. And, in requiring such a bond as this amendment proposes to exact from the owner, I do not think there is the slightest inconvenience imposed upon him, of which he ought to complain.

[Sir, there is one opinion prevailing—I hope not extensively—in

tion of boundary between New Mexico and Texas unsettled, to produce possibly the fearful consequences to which I have adverted?

Sir, on these questions, I believe—though I do not recollect the exact state of the vote in committee—that there was no serious diversity of opinion. We all thought we should establish governments for them if we could; that, at any rate, we should make the attempt; and if we failed, after making the attempt, we should stand irreproachable for any voluntary abandonment or neglect of them on our part.

The next question which arose before the committee, after having agreed upon the proposal to be made to Texas for the settlement of the boundary between her and New Mexico, was the question of the union of these three measures in one bill. And upon that subject, sir, the same diversity of opinion which had developed itself in the senate displayed itself in the committee.

A senator, in his seat.—What of the amount to be paid to Texas?

Mr. Clay.—Ah! I am reminded that I have said nothing about the amount proposed to be given to Texas for the relinquishment of her title to the United States of the territory north of the proposed line. The committee, I hope, with the approbation of the senate, thought it best not to fill up that blank until the last moment, upon the final reading of the bill; that if it were inserted in the bill it would go out to the country, and might lead to improper speculation in the stock markets; and that therefore it was better to leave it out until the final passage of the bill.—When we arrive at that point, which I hope we shall do in a short time, I shall be most happy to propose the sum which has been thought of by the committee.

Sir, the committee recommended the union of these three measures. If the senator from Missouri will allow me the benefit of those two cannons pointed to this side of the house, (alluding to two volumes of Hatsel,) I will be much obliged to him. I believe the senator from Missouri has them on his table.

Mr. Benton.—They are in the secretary's office.

Mr. Clay. The union of these three measures in one bill has been objected to, and has been already very much discussed in the senate. Out of respect to the senator from Missouri and to the senate, I feel myself called upon to give some answer to the argument which he addressed to the senate some days ago, to show that it was improper to connect them together. I must begin by stating what I understand to be parliamentary law in this country. It consists, in the first place, of the Constitution of the United States and of the rules adopted by the two houses of congress; and if you please, sir, Jefferson's Manual, which has been respected as authority, and used, I believe, in most of the deliberative bodies in this country. Now, sir, either the senator from Missouri or myself totally

misunderstands what is meant by Hatsel in the use of the word 'tacking.' We have no such thing as tacking in the English sense of the term. Jefferson has no chapter in his Manual on this subject of tacking. Hatsel first. Tacking in England is this: By the constitution of England—or, in other words, by the practice of England, which makes her constitution—money bills, supply bills, bills of subsidy and aid of all kinds, are passed by the house of commons, sent to the house of lords, and the lords are obliged to take them word for word, without making any amendment whatever. They are sent in that shape to the crown, and the crown is obliged to take them without amendment at all. The practice of tacking in England is this: knowing that a money bill is obliged to be passed without any alteration or amendment in the lords, the commons in England frequently, when they have a public object or measure to carry out, tack that measure to a money bill, and send it to the house of lords. They know that the over-ruling necessity of the aristocracy and of the crown is such that they must, for the sake of the money granted to them, agree to that clause favorable perhaps to liberty, or to something else that is tacked on to it. The process of tacking in England is therefore objected to by the crown and by the aristocracy always. It is never objected to by the commons.—And according as the prevalence of the authority of the crown and the aristocracy, or of the public branch of the legislature takes place, the practice of tacking is resorted to. Hence the quotation read by the senator the other day from Chancellor Finch. The king always, and the lords always complain of it. Hatsel, in the very loose and very unsatisfactory work of his which I have often had occasion to refer to, complains of it; but the fact is, the process of tacking in England is favorable to liberty; it is favorable to the commons of England. It is never objected to by them, but it is always objected to by the crown and the aristocracy. Her Majesty would be glad to get the money without being obliged to make any concessions to her subjects; and the house of lords would be equally disposed with her Majesty to think it very wrong to be compelled to swallow the whole. They would be willing to take the money, but they would have to take along with it the clause which has been tacked on in favor of personal liberty or of some rights of the subjects.

Sir, I had intended to go into the details of this subject, by way of answer to the honorable senator; but, really, I think it is hardly necessary. You find in the third volume of Hatsel that he has a chapter on the subject of bills tacked to bills of supply. I repeat, sir, that we have no such thing as that tacking process in this country. And why? Because, although tax bills and other bills originate in the house of representatives, and by the Constitution are required to originate there, the senate have a right to amend, to strike out any clause, to reduce the tax, or to make any additions or amendment which they please. The senate is under no such restraint as is the house of lords in England. Hence we have no such thing

as tacking, in the English parliamentary sense of the term. But tacking, even in England, is confined to what are considered incongruous measures. Now, sir, the question is, whether there is any incongruity in these measures: a bill for the admission of California: a bill establishing a territorial government in Utah; a bill establishing a territorial government for New Mexico; and what is indispensable, if we give her a government, a bill providing what shall be her boundary, provided Texas shall accede to the liberal proposal made to her? Is there any thing, I ask, incongruous in all this? Where is it? What is the incongruity? What is the indignity? for I have heard time after time that it is undignified, or that it is ill-treating California, to attach her to those portions of territory acquired from Mexico, included in Utah and New Mexico. What is the indignity? I admit that in general, for the sake of simplicity of business, it is better not to make any one bill complex, or even to embrace too great a variety of subjects of a congruous nature. But that rests in the sound discretion of congress. It rests in the pleasure of congress. Sir, it has been said that California has set us a very good example, by providing by her constitution that no two subjects are to be united in the same bill. Louisiana has done the same thing in her constitution. Ask the senator from Louisiana, or ask an honorable member of that legislature, who has just arrived here from Baton Rouge, and they will tell you to what vast inconvenience legislative action is exposed, in consequence of this constitutional restriction. What are incongruous subjects, what are distinct subjects, is a matter not always absolutely certain. If any thing which is thought incongruous is incorporated in a bill in that legislature, it is sent to the judiciary, and if the judiciary thinks the subjects are incongruous, the law cannot be constitutional, because, in the opinion of the judges, it was in violation of the constitution, which declared that the legislature should pass only congruous bills. I have been told, and the senator from Louisiana can state whether I have been correctly informed or not, that in two or three instances laws which have been passed by the legislature of Louisiana have been declared unconstitutional, in consequence of this constitutional restriction upon legislative action, and the courts would not enforce them.

I have stated what I think I ought to satisfy every body without dwelling upon it further. Now, sir, I will show you what has been done by congress from time to time in the annexation of different subjects in the same bill. Here, sir, is volume second, page 396, chapter five, of *The United States Statutes at Large*, in which I find 'An act to regulate and fix compensation for clerks, and *to authorize the laying out of public roads*, and for other purposes.'—The very title shows the incongruity of the subjects treated of. You will find in volume four, page 125, chapter 83, 'An act to extend the time for the settlement of private land claims in the territory of Florida, to provide for the preservation of the public archives in said

territory, and for the relief of John Johnson.' [Laughter.] Here the name of the individual came last, but I have a case before me in which the individual came first. It is to be found in the *Statutes at Large, private acts*, volume six, page 813, chapter 89, entitled 'An act for the relief of Chastelain and Pouvert, and for other purposes.' And what do you suppose those other purposes to have been? About fifty appropriations for a variety of subjects which can be supposed to arise under such a government as ours. Will my friend read the extract for me?

Mr. Underwood accordingly read the extract as follows:

'*An act for the relief of Chastelain and Pouvert, and for other purposes.*

'*Be it enacted, &c.* That the collector of the port of New York is hereby authorized to deduct from the amount of a bond given by Chastelain and Pouvert, for duties on merchandise imported in the schooner Gen. Jackson, Hawes, master, from Neuvitas, in the island of Cuba, such duties as may have been charged on that portion of said merchandise which was not landed in the United States, having been destroyed by fire in the harbor of New York, upon their producing proof to the collector of New York of the destruction of said merchandise.

*And be it further enacted*, That the following sums to pay the balance of accounts for which no appropriations now exist, and which have been passed upon and allowed by the proper accounting officer of the government, are now before them for audit, and for the payment of which appropriations are recommended by the heads of the proper departments, be and the same are appropriated, viz: For an award made by the proper accounting officer of the treasury in favor of the owners of the steamboats Stasca and Dayton, for services rendered under an agreement with Major Charles Thomas, quarter-master for the transportation of supplies, laborers, and other things for the use of the works at Fort Smith, Arkansas, in the year 1838, $13,350. For the payment of a balance due for supplies furnished to the Creek Indians, and medical services rendered to those Indians, after the commencement of the disturbances in the Creek country, and before and during the removal of the said Indians west of the Mississippi, which accounts were incurred under the direction of the proper officers or agents of the government, $7,741 44. For the payment of the expenses of a division of the lands of the Brothertown Indians among the members of the tribe, in obedience to the act of congress of the 3d of March, 1839, entitled, 'An act for the relief of the Brothertown Indians in the territory of Wisconsin,' the duties having been performed and the accounts presented, $1,830.'

Mr. Clay.—There are a great many others.

Mr. Benton.—What is the date of that act?

Mr. Clay.—It was approved July 1st, 1840; but I have one of a later date, if the honorable senator will prefer it. Here is one in 1849, entitled 'an act for the relief of James Norris, and for other purposes:'

'*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the secretary of the navy be, and is hereby, directed to place the name of James Norris, of Sandwich, in the state of New Hampshire, on the roll of invalid pensioners, and pay him a pension at such a rate per day as is provided by law for the total disability of an assistant surgeon in the

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most dangerous and undignified course, which ought not to be sanctioned.

I mentioned, sir, a while ago, acts which embraced every possible variety of legislation. I referred to an act providing for the support of the military academy of the United States for the year 1838, and for other purposes. That act makes thirty or forty appropriations for different objects! It makes appropriations for the documentary history of the revolution, for continuing the construction of the patent office, for furnishing machinery and other expenses incident to the outfit of the branch mint at New Orleans, Charlotte, and Dahlonega; for the salaries of the governor, chief judge, associate justices, district attorney, marshal, and pay and mileage of the members of the legislative assembly of the territory of Iowa, the expense there of taking the census, and for other incidental and contingent expenses of that territory, and in relation to the investment in state stock of the bequest of the late James Smithson, of London, for the purpose of founding at Washington, in this district, an institution we denominate the Smithsonian Institution. These and various other acts are all comprehended in a bill making an appropriation for the military academy at West Point.

Now, sir, after this, can it be said that there is any want of power, or any non-conformity in the practice of congress, in endeavoring to unite together, not three incongruous and discordant measures, but three measures of the same character, having, in different form, the same general object?

I will pass on, with a single observation on an amendment introduced by the committee into the territorial bill. To that amendment I was opposed, but it was carried in the committee. It is an amendment which is to be found in the tenth section of one of the bills limiting the power of the territorial legislature upon the subject of laws which it may pass. Amongst other limitations, it declares 'that the territorial legislature shall have no power to pass any law in respect to African slavery.' I did not then, and do not now, attach much importance to the amendment, which was proposed by an honorable senator, now in my eye, and carried by a majority of the committee. The effect of that clause will at once be understood by the senate. It speaks of 'African' slavery. The word African was introduced so as to leave the government at liberty to legislate as it might think proper on any other condition of slavery —'Peon' or 'Indian' slavery, which has so long existed under the Spanish regime. The object was to impose a restriction upon them as to the passage of any law either to admit or exclude African slavery, or of any law restricting it. The effect of that amendment will at once be seen. If the territorial legislature can pass no law with respect to African slavery, the state of the law as it exists now in the territories of Utah and New Mexico will continue to exist until the people form a constitution for themselves, when they can settle the question of slavery as they please. They will not be allowed to

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to the great advantages which will result. The expenses will be only two or three dollars for the seal of the court, and the certificate and attestation of the clerk, &c. Sir, we know the just reverence and respect in which records are ever held. The slaveholder himself will feel, when he goes from Virginia to Ohio with this record, that he has got a security which he never possessed before for the recovery of his property. And when the attestation of the clerk, under the seal of the court, is exhibited to the citizen of Ohio, that citizen will be disposed to respect, and bound to respect, under the laws of the United States, a record thus exhibited, coming from a sister state. The inconvenience will be very slight, very inconsiderable, compared with the great security of the slaveholder.

Mr. Butler.—As the bill to which the senator refers has been somewhat under my care, I am sure the honorable senator will allow me to ask a question in relation to this amendment. Is it proposed that the certificate shall be from the judge, or shall be from the court, as it is termed; because I see it seems to be inferred that it must be given by a court, and a court of record, which has a technical meaning? I desire the honorable senator to inform me whether it is thus to be given by a court or by a judge at chambers?

Mr. Clay.—Mr. President, I confess I had in view the county courts of probate which prevail throughout the United States, and not the judge. But it can be so modified, if it be deemed essential to the progress of the bill.

The committee partake of the same spirit which I have endeavored to manifest throughout this whole distracted question. They are not wedded to any particular plan; and if any amendments are offered that will improve and better the bills reported, they will be accepted. I am sure that I answer for every member of the committee, with pleasure, that any amendments to aid the object we have in view will be accepted. I repeat, sir, I confess I had in view that this record should be taken from the county courts, which prevail in almost all the states, except Louisiana and South Carolina, which have their parish courts. Any one of these courts, after hearing evidence about the ownership of property and the escape of the property, could give the required record, and this would be carried to that part of the country where the parties go.

With respect to the other amendment offered by the committee to the fugitive bill, I regretted extremely to hear the senator from Arkansas object so earnestly and so seriously to it. I did not pretend to question his right, or the right of any other senator, but he will surely allow me to say, in all kindness, that of all the states in this Union, without exception, I will not except even Virginia herself, I believe that the state which suffers more than any other by the escaping of slaves from their owners, seeking refuge either in Canada, or in some of the non-slaveholding states, Kentucky is the one. I doubt very much whether the state of Arkansas ever lost a slave. They may, very possibly, once in a while, run off to the Indians,

but very rarely. So of other interior states. So of Georgia and South Carolina. Sometimes, perhaps, a slave escapes from their seaports, but very rarely by land. Kentucky is the most suffering state, but I venture to anticipate for my own state that she will be satisfied with the provisions to which I am now about to call the attention of the senate.

Mr. President, in all subjects of this kind we must deal fairly and honestly by all. We must recollect that there are feelings, and interests, and sympathies on both sides of the question; and no man who has ever brought his mind seriously to the consideration of a suitable measure for the recapture of runaway slaves, can fail to admit that the question is surrounded with great difficulties. On the one hand, if the owner of the slave could go into this non-slaveholding state, and seize the negro, put his hands upon him, and the whole world would recognise the truth of his ownership of property, and the fact of the escape of that property, there would be no difficulty then in those states where prejudice against slavery exists in the highest degree. But he goes to a state which does not recognise slavery. Recollect how different the state of fact is now from what it was in 1793, nearly sixty years ago. There were, then, comparatively few free persons of color—few, compared to the numbers which exist at present. By the progress of emancipation in the slaveholding states, and the multiplication of them by natural causes, vast numbers of them have rushed to the free states.—There are in the cities of Philadelphia, New York, and Boston—I have not looked into the precise number—some eight or ten to one in proportion to the number there were in 1793 when the act passed.

In proportion to the number of free blacks, multiplied in the free states, does the difficulty increase of recovering a fugitive from a slaveholding state. Recollect, Mr. President, that the rule of law is reversed in the two classes of states. In the slaveholding states the rule is, that color implies slavery, and the *onus probandi* of freedom is thrown on the persons claiming it, as every person in the slaveholding states is regarded *prima facie* as a slave. On the contrary, when you go to the non-slaveholding states, color implies freedom and not slavery. Every man who is seen in the free states, though he be a man of color, is regarded as free. And when a stranger from Virginia or Kentucky goes to remote parts of Pennsylvania, and sees a black person, who perhaps has been living there for years, and claims him to be his slave, the feelings and sympathy of the neighborhood are naturally and necessarily excited in favor of the colored person. We all respect these feelings, where they are honestly entertained. Well, sir, what are you to do in a case of that kind? You will give every satisfaction that can be given that the person whom you propose to arrest is your property, and is a fugitive from your service or labor. That is the extent of one amendment which we propose to offer, but there is also another. The amendment upon which I have been commenting provides for the produc-

tion of a record. Now, what is the inconvenience of that? It provides that when the owner of the slave shall arrest his property in a non-slaveholding state, and shall take him before the proper functionary to obtain a certificate to authorize the return of that property to the state from which he fled, and if he declares to that functionary at the time that he is a free man and not a slave, what does the provision require the officer to do? Why, to take a bond from the agent or owner that he will carry the black person back to the county of the state from which he fled; and that at the first court which may sit after his return, he shall be carried there, if he again assert the right to his freedom; the court shall afford and the owner shall afford to him all the facilities which are requisite to enable him to establish his right to freedom. Now, no surety is even required of the master. The committee thought, and in that I believe they all concurred, that it would be wrong to demand of a stranger, hundreds of miles from his home, surety to take back the slave to the state from which he fled. The trial by jury is what is demanded by the non-slaveholding states. Well, we put the party claimed to be a fugitive back to the state from which he fled, and give him trial by jury in that state.

Well, sir, ought we not to make this concession? It is but very little inconvenience. I will tell you, sir, what will be the practical operation of this. It will be this: When a slave has escaped from the master, and taken a refuge in a free state, and that master comes to recapture him and take him back to the state from which he fled, the slave will cry out, 'I do not know the man; I never saw him in my life; I am a free man.' He will say any thing and do any thing to preserve to himself that freedom of which is for a moment in possession. He will assert most confidently before the judge that he is a free man. But take him back to the state from which he fled, to his comrades, and he will state the truth, and will relinquish all claim to freedom. The practical operation, therefore, of the amendment which we have proposed, will be attended with not the least earthly inconvenience to the party claiming the fugitive. The case is bond without surety. The bond is transmitted by the officer taking it to the district attorney of the state from which he has fled. That officer sees that the bond is executed, and that the slave is taken before the court. Perhaps, before the slave reaches home, he will acknowledge that he is a slave; there is an end of the bond and an end of the trouble about the master. Is this unreasonable? Is it not a proper and rational concession to the prejudices, if you please, which exist in the non-slaveholding states? Sir, our rights are to be asserted; our rights are to be maintained. They will be asserted and maintained in a manner not to wound unnecessarily the sensibilities of others. And, in requiring such a bond as this amendment proposes to exact from the owner, I do not think there is the slightest inconvenience imposed upon him, of which he ought to complain.

Sir, there is one opinion prevailing—I hope not extensively—in

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is the class of persons which we do not propose to conciliate by any amendment, by any concession which we can make.]

But the committee, in considering this delicate subject, and looking at the feelings and interests on both sides of the question, thought it best to offer these two provisions—that which requires the production of a record in the non-slaveholding states, and that which requires a bond to grant to the real claimant of his freedom a trial by jury, in the place where that trial ought to take place according to the interpretation of the constitution of the United States, if it take place any where. Therefore, in order to obviate the difficulties which have been presented, and to satisfy the prejudices in the non-slaveholding states, we propose to give the fugitive the right of trial by jury in the state from which he fled. The statement in the report of the committee is perfectly true that the greatest facilities are always extended to every man of color in the slaveholding states who sues for freedom. I have never known an instance of a failure on the part of a person thus suing to procure a verdict and judgment in his favor, if there were even slight grounds in support of his claim. And, sir, so far is the sympathy in behalf of a person suing for his freedom carried, that few members of the bar appear against them. I will mention, though in no boastful spirit, that I myself never appeared but once in my life against a person suing for his freedom, but have appeared for them in many instances without charging them a solitary cent. That I believe is the general course of the liberal and eminent portion of the bar throughout the country. One case I made an exception, but it was a case when I appeared for a particular friend. I told him: 'Sir, I will not appear against your negroes unless I am perfectly satisfied that they have no right to freedom; and even if I shall become, after the progress of the trial, convinced that they are entitled to freedom, I shall abandon your cause.' I venture to say, then, that in all that relates to tenderness of treatment to that portion of our population, and to the administration of justice to them, and the supply of their wants, nothing can be found in the slaveholding states that is not honorable and creditable to them.

Mr. President, the only measure remaining upon which I shall say a word now, is the abolition of the slave-trade in the district of Columbia. There is, I believe, precious little of it. I believe the first man in my life that I ever heard denounce that trade was a southern man—John Randolph of Roanoke. I believe there has been no time within the last forty years when, if earnestly pressed upon congress, there would not have been found a majority, perhaps a majority from the slaveholding states themselves, in favor of the abolition of the slave-trade in this district. The bill which the committee has reported is founded upon the law of Maryland, as it existed when this district was set apart and ceded to the United States.—Maryland has since very often changed her laws.—What is their exact condition at present, I am not aware. I have heard

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Mr. President, I do not despair, I will not despair, that the measure will be carried. And I would almost stake my existence, if I dared, that if these measures which have been reported by the committee of thirteen were submitted to the people of the United States to-morrow, and their votes were taken upon them, there would be nine-tenths of them in favor of the pacification which is embodied in that report.

Mr. President, what have we been looking at?—What are we looking at? The 'proviso;' an abstraction always; thrust upon the south by the north against all the necessities of the case, against all the warnings which the north ought to have listened to coming from the south; pressed unnecessarily for any northern object; opposed, I admit, by the south, with a degree of earnestness uncalled for, I think, by the nature of the provision, but with a degree of earnestness natural to the south, and which the north itself perhaps would have displayed if a reversal of the conditions of the two sections of the Union could have taken place. Why do you of the north press it? You say because it is in obedience to certain sentiments in behalf of human freedom and human rights which you entertain. You are likely to accomplish those objects at once by the progress of events, without pressing this obnoxious measure.—You may retort, why is it opposed at the south?—It is opposed at the south because the south feels that, when once legislation on the subject of slavery begins, there is no seeing where it is to end. Begin it in the district of Columbia; begin it in the territories of Utah and New Mexico and California; assert your power there to-day, and in spite of all the protestations—and you are not wanting in making protestations—that you have no purpose of extending it to the southern states, what security can you give them that a new sect will not arise with a new version of the constitution, or with something above or below the constitution, which shall authorize them to carry their notions into the bosoms of the slaveholding states, and endeavor to emancipate from bondage all the slaves there? Sir, the south has felt that her security lies in denying at the threshold your right to touch the subject of slavery. She said, 'Begin, and who can tell where you will end? Let one generation begin and assert the doctrine for the moment, forbearing as they may be in order to secure their present objects, their successors may arise with new notions, and new principles, and new expositions of the constitution and laws of nature, and carry those notions and new principles into the bosom of the slaveholding states.' The cases, then, gentlemen of the north and gentlemen of the south, do not stand upon an equal footing. When you, on the one hand, unnecessarily press an offensive and unnecessary measure on the south, the south repels it from the highest of all human motives of action, the security of property and life, and every thing else interesting and valuable in life.

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# CORRESPONDENCE.

[SINCE the decease of the distinguished subject of these memoirs, several of his letters (some of which were never intended for the public eye) have found their way into the newspapers. As a laudable curiosity exists to know the general style of his correspondence, a few letters are subjoined, which will afford a pretty correct idea of the easy and familiar manner of his intercourse with personal friends. The unreserved manner in which he expresses his opinions upon topics which were commanding attention at the time, may be regarded as peculiarly one of his prominent characteristics, and one, too, which few individuals in political life seem anxious to emulate.—The first three letters were addressed to Robert Walsh, Jr., Esq., formerly editor of the *National Gazette*, but of late years the Paris correspondent of the New York *Journal of Commerce*, in which paper they originally appeared.]

"WASHINGTON, 6th September, 1817.

"MY DEAR SIR: Having seen the second volume of the Register at Mr. D. Brent's, I was about to inquire at the book-stores for it, when a copy was left at my house, I did not know how, until I received your obliging favor of the 29th ulto. Although it found me engaged in an interesting course of reading, I did not hesitate to interrupt the progress of my studies, to peruse your introductory discourse.

"I was much gratified in perceiving that you had undertaken the vindication of the captors of Andre, from the most indiscreet and unfounded attack of Col. Talmage. Rarely, if ever, whilst presiding in the H. of R., was I so much shocked as when he made it. It was so unnecessary, so unjust, and, I thought, was so much the result of a wish, on the part of the accuser, to announce *his* participation in the concern of which he spoke. I really felt so transported with indignation, on the occasion, that I found myself, at one time, involuntarily rising from the Speaker's chair, in defence of those injured men. I then wished that congress would guard against the unfavorable inference, which the future historian might possibly draw, from a rejection of their petition, by allowing them the solicited augmentation of their pensions; and I still regret it was not done.

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to the great advantages which will result. The expenses will be only two or three dollars for the seal of the court, and the certificate and attestation of the clerk, &c. Sir, we know the just reverence and respect in which records are ever held. The slaveholder himself will feel, when he goes from Virginia to Ohio with this record, that he has got a security which he never possessed before for the recovery of his property. And when the attestation of the clerk, under the seal of the court, is exhibited to the citizen of Ohio, that citizen will be disposed to respect, and bound to respect, under the laws of the United States, a record thus exhibited, coming from a sister state. The inconvenience will be very slight, very inconsiderable, compared with the great security of the slaveholder.

Mr. Butler.—As the bill to which the senator refers has been somewhat under my care, I am sure the honorable senator will allow me to ask a question in relation to this amendment. Is it proposed that the certificate shall be from the judge, or shall be from the court, as it is termed; because I see it seems to be inferred that it must be given by a court, and a court of record, which has a technical meaning? I desire the honorable senator to inform me whether it is thus to be given by a court or by a judge at chambers?

Mr. Clay.—Mr. President, I confess I had in view the county courts of probate which prevail throughout the United States, and not the judge. But it can be so modified, if it be deemed essential to the progress of the bill.

The committee partake of the same spirit which I have endeavored to manifest throughout this whole distracted question. They are not wedded to any particular plan; and if any amendments are offered that will improve and better the bills reported, they will be accepted. I am sure that I answer for every member of the committee, with pleasure, that any amendments to aid the object we have in view will be accepted. I repeat, sir, I confess I had in view that this record should be taken from the county courts, which prevail in almost all the states, except Louisiana and South Carolina, which have their parish courts. Any one of these courts, after hearing evidence about the ownership of property and the escape of the property, could give the required record, and this would be carried to that part of the country where the parties go.

With respect to the other amendment offered by the committee to the fugitive bill, I regretted extremely to hear the senator from Arkansas object so earnestly and so seriously to it. I did not pretend to question his right, or the right of any other senator, but he will surely allow me to say, in all kindness, that of all the states in this Union, without exception, I will not except even Virginia herself, I believe that the state which suffers more than any other by the escaping of slaves from their owners, seeking refuge either in Canada, or in some of the non-slaveholding states, Kentucky is the one. I doubt very much whether the state of Arkansas ever lost a slave. They may, very possibly, once in a while, run off to the Indians,

but very rarely. So of other interior states. So of Georgia and South Carolina. Sometimes, perhaps, a slave escapes from their seaports, but very rarely by land. Kentucky is the most suffering state, but I venture to anticipate for my own state that she will be satisfied with the provisions to which I am now about to call the attention of the senate.

Mr. President, in all subjects of this kind we must deal fairly and honestly by all. We must recollect that there are feelings, and interests, and sympathies on both sides of the question; and no man who has ever brought his mind seriously to the consideration of a suitable measure for the recapture of runaway slaves, can fail to admit that the question is surrounded with great difficulties. On the one hand, if the owner of the slave could go into this non-slaveholding state, and seize the negro, put his hands upon him, and the whole world would recognise the truth of his ownership of property, and the fact of the escape of that property, there would be no difficulty then in those states where prejudice against slavery exists in the highest degree. But he goes to a state which does not recognise slavery. Recollect how different the state of fact is now from what it was in 1793, nearly sixty years ago. There were, then, comparatively few free persons of color—few, compared to the numbers which exist at present. By the progress of emancipation in the slaveholding states, and the multiplication of them by natural causes, vast numbers of them have rushed to the free states.—There are in the cities of Philadelphia, New York, and Boston—I have not looked into the precise number—some eight or ten to one in proportion to the number there were in 1793 when the act passed.

In proportion to the number of free blacks, multiplied in the free states, does the difficulty increase of recovering a fugitive from a slaveholding state. Recollect, Mr. President, that the rule of law is reversed in the two classes of states. In the slaveholding states the rule is, that color implies slavery, and the *onus probandi* of freedom is thrown on the persons claiming it, as every person in the slaveholding states is regarded *prima facie* as a slave. On the contrary, when you go to the non-slaveholding states, color implies freedom and not slavery. Every man who is seen in the free states, though he be a man of color, is regarded as free. And when a stranger from Virginia or Kentucky goes to remote parts of Pennsylvania, and sees a black person, who perhaps has been living there for years, and claims him to be his slave, the feelings and sympathy of the neighborhood are naturally and necessarily excited in favor of the colored person. We all respect these feelings, where they are honestly entertained. Well, sir, what are you to do in a case of that kind? You will give every satisfaction that can be given that the person whom you propose to arrest is your property, and is a fugitive from your service or labor. That is the extent of one amendment which we propose to offer, but there is also another. The amendment upon which I have been commenting provides for the produc-

tion of a record. Now, what is the inconvenience of that? It provides that when the owner of the slave shall arrest his property in a non-slaveholding state, and shall take him before the proper functionary to obtain a certificate to authorize the return of that property to the state from which he fled, and if he declares to that functionary at the time that he is a free man and not a slave, what does the provision require the officer to do? Why, to take a bond from the agent or owner that he will carry the black person back to the county of the state from which he fled; and that at the first court which may sit after his return, he shall be carried there, if he again assert the right to his freedom; the court shall afford and the owner shall afford to him all the facilities which are requisite to enable him to establish his right to freedom. Now, no surety is even required of the master. The committee thought, and in that I believe they all concurred, that it would be wrong to demand of a stranger, hundreds of miles from his home, surety to take back the slave to the state from which he fled. The trial by jury is what is demanded by the non-slaveholding states. Well, we put the party claimed to be a fugitive back to the state from which he fled, and give him trial by jury in that state.

Well, sir, ought we not to make this concession? It is but very little inconvenience. I will tell you, sir, what will be the practical operation of this. It will be this: When a slave has escaped from the master, and taken a refuge in a free state, and that master comes to recapture him and take him back to the state from which he fled, the slave will cry out, 'I do not know the man; I never saw him in my life; I am a free man.' He will say any thing and do any thing to preserve to himself that freedom of which is for a moment in possession. He will assert most confidently before the judge that he is a free man. But take him back to the state from which he fled, to his comrades, and he will state the truth, and will relinquish all claim to freedom. The practical operation, therefore, of the amendment which we have proposed, will be attended with not the least earthly inconvenience to the party claiming the fugitive. The case is bond without surety. The bond is transmitted by the officer taking it to the district attorney of the state from which he has fled. That officer sees that the bond is executed, and that the slave is taken before the court. Perhaps, before the slave reaches home, he will acknowledge that he is a slave; there is an end of the bond and an end of the trouble about the master. Is this unreasonable? Is it not a proper and rational concession to the prejudices, if you please, which exist in the non-slaveholding states? Sir, our rights are to be asserted; our rights are to be maintained. They will be asserted and maintained in a manner not to wound unnecessarily the sensibilities of others. And, in requiring such a bond as this amendment proposes to exact from the owner, I do not think there is the slightest inconvenience imposed upon him, of which he ought to complain.

Sir, there is one opinion prevailing—I hope not extensively—in

some of the non-slaveholding states, which nothing we can do will conciliate. I allude to that opinion that asserts that there is a higher law—a divine law—a natural law—which entitles a man, under whose roof a runaway has come, to give him assistance, and succor, and hospitality. A divine law, a natural law! and who are they that venture to tell us what is divine and what is natural law? Where are their credentials of prophecy? Why, sir, we are told that the other day, at a meeting of some of these people at New York, Moses and all the prophets were rejected, and that the name even of our blessed Saviour was treated with sacrilege and contempt by these propagators of a divine law, of a natural law which they have discovered above all human laws and constitutions. If Moses and the prophets, and our Saviour and all others, are to be rejected, will they condescend to show us their authority for propagating this new law, this new divine law of which they speak? The law of nature, sir! Look at it as it is promulgated, and even admitted or threatened to be enforced, in some quarters of the world. Well, sir, some of these people have discovered another plausible law of nature. There is a large class who say that if a man has acquired, no matter whether by his own exertions or by inheritance, a vast estate, much more than is necessary for the existence of himself and family, I who am starving, am entitled by a law of Nature to have a portion of these accumulated goods to save me from the death which threatens me. Here are you, with your barns full, with your warehouses full of goods, collected from all quarters of the globe; your kitchens and laundries and pantries all full of that which conduces to the subsistence and comfort of man; and here am I standing by, as Lazarus at the gate of the rich man, perishing from hunger—will not the law of Nature allow me to take enough of your super-abundance to save me a little while from that death which is inevitable without I do it? Why, sir, trace this pretended law of Nature, about which, seriously, none of the philosophers are agreed, and apply it to one of the most interesting and solemn ceremonies of life. Go to a Mahometan country, and the Mahometan will tell you that you are entitled to as many wives as you can get. Come next to a Christian country, and you will be told that you are entitled to but one. Go to our friends the Mormons, and they will tell you that you are entitled to none. But there are persons in this age of enlightenment and progress and civilization, who will rise up in public assemblages, and, denouncing the church and all that is sacred that belongs to it—denouncing the founders of the religion which all profess and revere—will tell you that notwithstanding the solemn oath which they have taken by kissing the book to carry out into full effect all the provisions of the constitution of our country, there is a law of their God—a divine law, which they have found out and nobody else has—superior and paramount to all human law; and that they do not mean to obey this human law, but the divine law, of which, by some inspiration, by some means undisclosed, they have obtained a knowledge. That

is the class of persons which we do not propose to conciliate by any amendment, by any concession which we can make.]

But the committee, in considering this delicate subject, and looking at the feelings and interests on both sides of the question, thought it best to offer these two provisions—that which requires the production of a record in the non-slaveholding states, and that which requires a bond to grant to the real claimant of his freedom a trial by jury, in the place where that trial ought to take place according to the interpretation of the constitution of the United States, if it take place any where. Therefore, in order to obviate the difficulties which have been presented, and to satisfy the prejudices in the non-slaveholding states, we propose to give the fugitive the right of trial by jury in the state from which he fled. The statement in the report of the committee is perfectly true that the greatest facilities are always extended to every man of color in the slaveholding states who sues for freedom. I have never known an instance of a failure on the part of a person thus suing to procure a verdict and judgment in his favor, if there were even slight grounds in support of his claim. And, sir, so far is the sympathy in behalf of a person suing for his freedom carried, that few members of the bar appear against them. I will mention, though in no boastful spirit, that I myself never appeared but once in my life against a person suing for his freedom, but have appeared for them in many instances without charging them a solitary cent. That I believe is the general course of the liberal and eminent portion of the bar throughout the country. One case I made an exception, but it was a case when I appeared for a particular friend. I told him: 'Sir, I will not appear against your negroes unless I am perfectly satisfied that they have no right to freedom; and even if I shall become, after the progress of the trial, convinced that they are entitled to freedom, I shall abandon your cause.' I venture to say, then, that in all that relates to tenderness of treatment to that portion of our population, and to the administration of justice to them, and the supply of their wants, nothing can be found in the slaveholding states that is not honorable and creditable to them.

Mr. President, the only measure remaining upon which I shall say a word now, is the abolition of the slave-trade in the district of Columbia. There is, I believe, precious little of it. I believe the first man in my life that I ever heard denounce that trade was a southern man—John Randolph of Roanoke. I believe there has been no time within the last forty years when, if earnestly pressed upon congress, there would not have been found a majority, perhaps a majority from the slaveholding states themselves, in favor of the abolition of the slave-trade in this district. The bill which the committee has reported is founded upon the law of Maryland, as it existed when this district was set apart and ceded to the United States.—Maryland has since very often changed her laws.—What is their exact condition at present, I am not aware. I have heard

that she has made a change at the last session, and I am told that they may again be changed in the course of a year or two. Sir, some years ago, it would have been thought a great concession to the feelings and wishes of the north to abolish this slave-trade. Now, I have seen some of the rabid abolition papers denounce it as amounting to nothing. They do not care for that. And will my friends, some of my friends on the other side of the house, allow me to say a word or two with respect to their course in relation to this measure. At the beginning of this session, as you know, that offensive proviso, called the 'Wilmot proviso,' was what was most apprehended, and what all the slaveholding states were most desirous to get rid of. Well, sir, by the operation of causes upon the northern mind friendly to the Union, hopes are inspired, which I trust will not be frustrated in the progress of this measure, that the north, or at least a sufficient portion of the north, are now willing to dispense with the proviso. When, three months ago, I offered certain resolutions, and when to these measures it was objected, by way of reproach, that they were simply carrying out my own plan, my honorable friend from North Carolina at the moment justly pointed out the essential differences between the plan, as contained in the resolutions offered by me, and that now presented by the committee.

At the time I offered those resolutions, knowing what consequences and, as I sometimes feared, fatal consequences, might result from the fact of the north insisting on the proviso, by way of compensation, in one of the resolutions which I offered—the second one—I stated two truths, one of law and one of fact, which I thought ought to satisfy the north that it ought no longer to insist on the Wilmot proviso. Those truths were not incorporated in the bill reported by the committee, but they exist, nevertheless, as truths. I believe them both now as much I did in February last. I know there are others who do not concur with me in opinion. Every senator must decide for himself, as the country will decide for itself, when the question comes to be considered. Well, when our southern friends found they were rid of the proviso, they were highly satisfied, and I shared with them in their satisfaction. If I am not much mistaken, a great majority of them would have said, 'If, Mr. Clay, you had not put those two obnoxious truths in them, we should have been satisfied with your resolution.' Well, sir, we have got rid of the Wilmot proviso, we have got rid of the enactment into laws of the two truths to which I refer, but I fear there are some of our southern brethren who are not satisfied. There are some who say that there is yet the Wilmot proviso, under another form, lurking in the mountains of Mexico, in that natural fact to which my honorable friend from Massachusetts adverted, as I myself did when I hinted that the law of nature was adverse to the introduction of slavery there. Now, as you find that just desire is to be obtained, there is something further, there are other difficulties in the way of the adjustment of these unhappy sub-

jects of difference, and of obtaining that which is most to be desired, the cementing of the bonds of this Union.

Mr. President, I do not despair, I will not despair, that the measure will be carried. And I would almost stake my existence, if I dared, that if these measures which have been reported by the committee of thirteen were submitted to the people of the United States to-morrow, and their votes were taken upon them, there would be nine-tenths of them in favor of the pacification which is embodied in that report.

Mr. President, what have we been looking at?—What are we looking at? The 'proviso;' an abstraction always; thrust upon the south by the north against all the necessities of the case, against all the warnings which the north ought to have listened to coming from the south; pressed unnecessarily for any northern object; opposed, I admit, by the south, with a degree of earnestness uncalled for, I think, by the nature of the provision, but with a degree of earnestness natural to the south, and which the north itself perhaps would have displayed if a reversal of the conditions of the two sections of the Union could have taken place. Why do you of the north press it? You say because it is in obedience to certain sentiments in behalf of human freedom and human rights which you entertain. You are likely to accomplish those objects at once by the progress of events, without pressing this obnoxious measure.—You may retort, why is it opposed at the south?—It is opposed at the south because the south feels that, when once legislation on the subject of slavery begins, there is no seeing where it is to end. Begin it in the district of Columbia; begin it in the territories of Utah and New Mexico and California; assert your power there to-day, and in spite of all the protestations—and you are not wanting in making protestations—that you have no purpose of extending it to the southern states, what security can you give them that a new sect will not arise with a new version of the constitution, or with something above or below the constitution, which shall authorize them to carry their notions into the bosoms of the slaveholding states, and endeavor to emancipate from bondage all the slaves there? (Sir, the south has felt that her security lies in denying at the threshold your right to touch the subject of slavery. She said, 'Begin, and who can tell where you will end? Let one generation begin and assert the doctrine for the moment, forbearing as they may be in order to secure their present objects, their successors may arise with new notions, and new principles, and new expositions of the constitution and laws of nature, and carry those notions and new principles into the bosom of the slaveholding states.' The cases, then, gentlemen of the north and gentlemen of the south, do not stand upon an equal footing. When you, on the one hand, unnecessarily press an offensive and unnecessary measure on the south, the south repels it from the highest of all human motives of action, the security of property and life, and every thing else interesting and valuable in life.)

Mr. President, after we have got rid, as I had hoped, of all these troubles—after this Wilmot proviso has disappeared, as I trust it may both in this and the other end of the capitol—after we have been disputing two or three years or more, on the one hand, about a mere abstraction, and on the other, if it were fraught with evil, not so much present as distant and future, when we are arriving at a conclusion, what are the new difficulties that spring up around us? Matters of form. The purest question of form, that was ever presented to the mind of man—whether we shall combine in one united bill three measures, all of which are necessary, or separate them into three distinct bills, passing each in its turn, if it can be done.

Mr. President, I trust that the feelings of attachment to the Union, of love for its past glory, of anticipation of its future benefits and happiness; a fraternal feeling which, I trust, will be common throughout all parts of the country; the desire to live together in peace and harmony, to prosper as we have prospered heretofore, to hold up to the civilized world the example of one great and glorious republic, fulfilling the high destiny that belongs to it, demonstrating beyond all doubt man's capacity for self-government; these motives and these considerations will, I trust, animate us all, bringing us together to dismiss alike questions of abstraction and form, and consummating the act in such a manner as to heal not one only, but all the wounds of the country.

# CORRESPONDENCE.

[SINCE the decease of the distinguished subject of these memoirs, several of his letters (some of which were never intended for the public eye) have found their way into the newspapers. As a laudable curiosity exists to know the general style of his correspondence, a few letters are subjoined, which will afford a pretty correct idea of the easy and familiar manner of his intercourse with personal friends. The unreserved manner in which he expresses his opinions upon topics which were commanding attention at the time, may be regarded as peculiarly one of his prominent characteristics, and one, too, which few individuals in political life seem anxious to emulate.—The first three letters were addressed to Robert Walsh, Jr., Esq., formerly editor of the *National Gazette*, but of late years the Paris correspondent of the New York *Journal of Commerce*, in which paper they originally appeared.]

"WASHINGTON, 6th September, 1817.

"MY DEAR SIR: Having seen the second volume of the Register at Mr. D. Brent's, I was about to inquire at the book-stores for it, when a copy was left at my house, I did not know how, until I received your obliging favor of the 29th ulto. Although it found me engaged in an interesting course of reading, I did not hesitate to interrupt the progress of my studies, to peruse your introductory discourse.

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admit or exclude it. They will be restrained on the one hand from its admission, and on the other from its exclusion. Sir, I shall not repeat now the expression of opinion which I have already announced to the senate as being held by me on this subject. My opinion is, that the law of Mexico, in all the variety of forms in which legislation can take place—that is to say, by the edict of a dictator, by the constitution of the people of Mexico, by the act of the legislative authority of Mexico—by all these modes of legislation, slavery has been abolished there. I am aware that some other senators entertain a different opinion; but without going into discussion of that question, which I think altogether unnecessary, I feel authorized to say that the opinion of a vast majority of the people of the United States, of a vast majority of the jurists of the United States, is in coincidence with that which I entertain; that is to say, that at this moment, by law and in fact, there is no slavery there, unless it is possible that some gentlemen from the slave states, in passing through that country, may have taken along their body slaves. In point of fact and in point of law, I entertain the opinions which I expressed at an early period of the session. Sir, we have heard since, from authority entitled to the highest respect, from no less authority than that of the delegate from New Mexico, that labor can be there obtained at the rate of three or four dollars per month; and, if it can be got at that rate, can anybody suppose that any owner of slaves would ever carry them to that country, where he could only get three or four dollars per month for them?

I believe, on this part of the subject, I have said every thing that is necessary for me to say; but their remains two or three subjects upon which I wish to say a few words before I close what I have to offer for the consideration of the senate.

The next subject upon which the committee acted was that of fugitive slaves. The committee have proposed two amendments to be offered to the bill introduced by the senator from Virginia, (Mr. Mason,) whenever the bill is taken up. The first of these amendments provides that the owner of a fugitive slave, when leaving his own state, and whenever it is practicable—for sometimes, in the hot pursuit of an immediate runaway, it may not be in the power of the master to wait to get such record, and he will always do it if it is possible—shall carry with him a record from the state from which the fugitive has fled; which record shall contain an adjudication of two facts: first, the fact of slavery, and secondly, the fact of elopement; and in the third place, such a general description of the slave as the court shall be enabled to give upon such testimony as shall be brought before it. It also provides that this record, taken from the county court, or from the court of record in the slaveholding state, shall be taken to the free state, and shall be there held to be competent and sufficient evidence of the facts which it avows. Now, sir, I heard objection made to this that it would be an inconvenience and an expense to the slaveholder. I think the expense will be very trifling

representing it, than to see such an arrangement of the pay, that only one or two persons could face the expense and sacrifice incident to a seat.

"Do you not press the subject of Bonaparte too far? Fallen and captive, has he not some claim upon the magnanimity not only of his conquerors, but, during his imprisonment, upon cotemporary authors also? England has shown him none. All posterity will, I think, condemn her surrender of him to the allies, and her concurrence in his exile to St. Helena. Chatham, or Fox, or even Pitt, would have permitted him, as he desired, to remain in England. Is it not to be apprehended that any animadversions upon him, at the present time, will indirectly conduce to sanction the principles of legitimacy and the conduct of the allies?

"I ought to apologize for the unintended length of my letter. I do not often turn over the first side of the paper, and can only say that my having offended, in this instance, has proceeded from the respect and consideration in which you are held by

"Yours, faithfully and cordially, "H. CLAY.

"R. WALSH, JR., ESQ."

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[CONFIDENTIAL.]

"WASHINGTON, 18th Feb. '25.

"DEAR SIR: I thank you for your prompt attention to the paragraph which I sent you, and for your friendly letter.

"You did not like my Kremer Card. I was not surprised, but hear me. I was assailed from all quarters. The cannon of every man who would now, or four or eight years hence, be President, (except that of Mr. A.,) was directed against me. I heard it all, and saw every movement. I should have disregarded it, whilst the attack assumed the ordinary form of anonymous or even editorial commentary. But when a person was so far designated as to be elected to be a *member* of the H. of R, belonging to the *Pennsylvania* delegation, it assumed a tangible shape. A crisis arose in my poor affairs. Silence and criminality would have been the same. And it seemed to me that I was called upon to take a step even of apparent rashness. I ought to have omitted the last sentence in the Card; but as to the rest, I yet approve of it. And still the reason, the philosophy, the religion of no man more decidedly condemns duelling than, I hope I may say, mine does. The corrective of that pernicious practice must be found in communities, not in individuals, at least in such humble ones as I am. When the public shall cease to stamp with dishonor the man who tamely submits to injurious imputations, duels will cease. I hope the sequel of that affair was more satisfactory to the northern public.

"I have consented to go into the department of state, after much deliberation. They will abuse me for it. They would have abused me more if I had declined it. I shall carry into it zeal and industry

"I am

"Robert Walsh, Jr., Esq."

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"Dear Sir: I duly received you
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wards negotiated.

"My instructions to Mr. Brow

world should be placed. I there argue and endeavor to have established the principle that *private* property on the ocean shall enjoy the same security and protection to which it is entitled on land. And all the principles in favor of free trade, against spurious blockades, for which we had so long and so earnestly contended, are sought to be established at the proposed congress.

"The instructions are almost exclusively my sole work. Without consulting any body particularly, I engaged in their preparation, and after I had submitted the draft of them to the President and his Cabinet. They run into about eighty pages of manuscript, and I do not think that the alterations which, on the scrutiny of these gentlemen, they underwent, amounted altogether to one page; and these relate chiefly to the projected connexion between the Atlantic and Pacific oceans. I was disposed to go a little farther than my colleagues.

"The relations in which I stood to the Diplomatic Corps, during the whole term of Mr. Adams's administration, and to every member of it, were of the most cordial and friendly character. It was impossible, I think, that business could have been transacted more satisfactorily to all parties. I have reason to believe, that up to this moment, the members of that corps who were associated with me, retain lively recollections of our amicable feelings and intercourse.

"I will not dwell on this subject: but must refer you, for any deficiencies, to my public acts and the transactions of the day.

"I will add that I introduced into the Department, as vacancies from time to time occurred, (I created none) some most accomplished assistants, several of whom were found to be so necessary that they escaped the general proscription.

"I think it very probable that your feelings towards me have been sometimes misunderstood and misrepresented. Certainly, in our personal intercourse, I never discovered any evidence of hostility or prejudice. Candor obliges me to say that I have sometimes seen in your paper what I thought bore testimony of an inimical spirit; but your frank assurance now convinces me that I was mistaken. We have been in the midst, during these late years, of the most exciting scenes in our public affairs. I do not much underrate the power which I was opposing—certainly not its disastrous tendency. I felt that I was struggling for the country, for its civil liberty, its institutions, its prosperity, its value. I felt that I had a good title to the support of all honorable and intelligent men. Perhaps I have been sometimes too sensitive, when I thought that support was not yielded, and have censured too hastily when I supposed a measure of zeal in the public cause was not displayed by others equal to my own With best wishes for your health and prosperity, I am

"Your friend and obedient servant,

"R. WALSH, ESQ." "H. CLAY.

Gentlemen,—I have perused
which it was written. I am gl
vant Charles, meets your appr
been given to the fact, which I
not in the habit of making any
but since you have adverted t
previously emancipated Charle
in his father's voluntary abando
his wife near me. Charles co
effect of his freedom is no other
which I now pay to him, for the
which I gave him.

You express a wish that I
slaves. Of these more than ha
themselves, from infancy, old
amilies. What would they do
world? Such a measure would
Our law does not admit of e
given that the freed slave shall

In truth, gentlemen, the que
yet remaining with me, evolves
and locality, of which, withou
think you are hardly compete
alone am responsible to the w
must reserve to myself the exc

I firmly believe that the cau
far from being advanced, has b
subject at the North. This re
like you, are moved by bene
gratify personal or political am

I am, with gre

Your fr

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